103

UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

Y 4. M 53: 103-11

United States-Flag Passenger Vessel...

RING

RE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1250

A BILL TO AMEND THE COASTWISE TRADE LAWS TO CLARIFY THEIR APPLICATION TO CERTAIN PASSENGER VESSELS

MARCH 11, 1993

Serial No. 103–11

Printed for the use of the Committee on Merchant Marine and Fisheries

SEP 9 1993
BOSTON PUBLIC LIBRARY

U.S. GOVERNMENT PRINTING OFFICE

68-664 ⇆ WASHINGTON : 1993

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-041143-2

UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

Y 4. M 53: 103-11

United States-Flag Passenger Vessel...

RING

IE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1250

A BILL TO AMEND THE COASTWISE TRADE LAWS TO CLARIFY THEIR APPLICATION TO CERTAIN PASSENGER VESSELS

MARCH 11, 1993

Serial No. 103–11

Printed for the use of the Committee on Merchant Marine and Fisheries

SEP 9 1993
BOSTON PUBLIC LIBRARY

U.S. GOVERNMENT PRINTING OFFICE

68-664 ·. WASHINGTON : 1993

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-041143-2

COMMITTEE ON MERCHANT MARINE AND FISHERIES

GERRY E. STUDDS, Massachusetts, *Chairman*

WILLIAM J. HUGHES, New Jersey
EARL HUTTO, Florida
W.J. (BILLY) TAUZIN, Louisiana
WILLIAM O. LIPINSKI, Illinois
SOLOMON P. ORTIZ, Texas
THOMAS J. MANTON, New York
OWEN B. PICKETT, Virginia
GEORGE J. HOCHBRUECKNER, New York
FRANK PALLONE, Jr., New Jersey
GREG LAUGHLIN, Texas
JOLENE UNSOELD, Washington
GENE TAYLOR, Mississippi
JACK REED, Rhode Island
H. MARTIN LANCASTER, North Carolina
THOMAS H. ANDREWS, Maine
ELIZABETH FURSE, Oregon
LYNN SCHENK, California
GENE GREEN, Texas
ALCEE L. HASTINGS, Florida
DAN HAMBURG, California
BLANCHE M. LAMBERT, Arkansas
ANNA G. ESHOO, California
THOMAS J. BARLOW, III, Kentucky
BART STUPAK, Michigan
MARIA CANTWELL, Washington
PETER DEUTSCH, Florida
GARY L. ACKERMAN, New York

JACK FIELDS, Texas
DON YOUNG, Alaska
HERBERT H. BATEMAN, Virginia
JIM SAXTON, New Jersey
HOWARD COBLE, North Carolina
CURT WELDON, Pennsylvania
JAMES M. INHOFE, Oklahoma
ARTHUR RAVENEL, Jr., South Carolina
WAYNE T. GILCHREST, Maryland
RANDY "DUKE" CUNNINGHAM, California
JACK KINGSTON, Georgia
TILLIE K. FOWLER, Florida
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
LINCOLN DIAZ-BALART, Florida
RICHARD W. POMBO, California

Jeffrey R. Pike, *Staff Director*
William W. Stelle, Jr., *Chief Counsel*
Mary J. Fusco Kitsos, *Chief Clerk*
Harry F. Burroughs, *Minority Staff Director*

Subcommittee on Merchant Marine

WILLIAM O. LIPINSKI, Illinois, *Chairman*

OWEN B. PICKETT, Virginia
GENE TAYLOR, Mississippi
THOMAS H. ANDREWS, Maine
LYNN SCHENK, California
GENE GREEN, Texas
ALCEE L. HASTINGS, Florida
JACK REED, Rhode Island
ELIZABETH FURSE, Oregon
BART STUPAK, Michigan
THOMAS J. MANTON, New York
GARY L. ACKERMAN, New York
GERRY E. STUDDS, Massachusetts (Ex Officio)

HERBERT H. BATEMAN, Virginia
JAMES M. INHOFE, Oklahoma
RANDY "DUKE" CUNNINGHAM, California
JACK KINGSTON, Georgia
TILLIE K. FOWLER, Florida
PETER T. KING, New York
LINCOLN DIAZ-BALART, Florida
JACK FIELDS, Texas (Ex Officio)

Keith Lesnick, *Staff Director*
David Honness, *Professional Staff*
John C. Rayfield, *Minority Professional Staff*

CONTENTS

	Page
Hearing held March 11, 1993	1
Text of H.R. 1250	30
Statement of:	
Bateman, Hon. Herbert H., a U.S. Representative from Virginia	2
Brown, Captain Timothy A., President, International Organization of Masters, Mates & Pilots, ILA, AFL-CIO (prepared statement)	70
Crangle, Charles T., Executive Director of Congressional and Legislative Affairs, American Maritime Officers, AFL-CIO	17
Prepared statement	55
Discovery Cruises of Fort Lauderdale and Port Everglades (prepared statement)	91
Estes, John T., President, International Council of Cruise Lines	24
Prepared statement	75
Fields, Hon. Jack, a U.S. Representative from Texas, and Ranking Minority Member, Committee on Merchant Marine	2
Henry, James L., President, Transportation Institute (prepared statement)	82
Lipinski, Hon. William O., a U.S. Representative from Illinois, and Chairman, Subcommittee on Merchant Marine	1
Passenger Vessel Association (prepared statement)	88
Stocker, John J., President, Shipbuilders Council of America	6
Prepared statement	38
Studds, Hon. Gerry, a U.S. Representative from Massachusetts, and Chairman, Committee on Merchant Marine	3
Taylor, Hon. Gene, a U.S. Representative from Mississippi	3
Turner, Terry, National Director of Political Action and Governmental Relations, Seafarers International Union	17
Prepared statement	64
Walpert, Harvey, Senior Vice President, Trinity Marine Group	6, 8
Prepared statement	52
Walton, Captain John, Assistant to the President, International Organization of Masters, Mates & Pilots	17, 20
Prepared statement	70
Additional material supplied:	
Discovery Cruises: H.R. 1250 will put Discovery Cruises out of business and will have a negative economic impact	105
Communications submitted:	
Lipinski, Hon. William O.: Memorandum of March 9, 1993, to Subcommittee Members on U.S.-Flag Passenger Vessel Act of 1993	35

UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

THURSDAY, MARCH 11, 1993

House of Representatives,
Subcommittee on Merchant Marine,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The subcommittee met, pursuant to call, at 10:00 a.m., in room 1334, Longworth House Office Building, Hon. William O. Lipinski (chairman of the subcommittee) presiding.

Present: Representatives Lipinski, Pickett, Taylor, Schenk, Green, Reed, Stupak, Bateman, Kingston, Fowler, Diaz-Balart and Young.

Staff Present: Sharon K. Brooks, Counsel; David Honness, Professional Staff; Randy Morris, Subcommittee Clerk; Hugh N. Johnston, Minority Counsel; Laura Burd, Staff Aide; Fred Zeytoonjian, Staff Aide; Jeffrey R. Pike, Staff Director; Edmund B. Welch, Counsel; Carl W. Bentzel, Counsel; John Cullather, Professional Staff; Sue Waldron, Press Assistant; Ann M. Mueller, Clerk; Harry F. Burroughs, Minority Staff Director; Cynthia M. Wilkinson, Minority Chief Counsel; and Kip Robinson, Minority Counsel.

Mr. Lipinski. Good morning to everyone.

STATEMENT OF HON. WILLIAM O. LIPINSKI, A U.S. REPRESENTATIVE FROM ILLINOIS, AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. Lipinski. The subcommittee meets this morning to receive testimony on H.R. 1250, the United States-Flag Passenger Vessel Act of 1993. This legislation was introduced on March 9th by Mr. Taylor on behalf of himself, Mr. Studds, Mr. Fields, Mr. Bateman, Mr. Tauzin and myself.

H.R. 1250 will close a loophole in coastwise trade laws that has been exploited in recent years to the detriment of American shipping.

As many of you know, this issue was brought before this subcommittee during the 102nd Congress. Mr. Taylor introduced similar legislation which passed both this subcommittee and the full committee. It passed the House on September 22nd, 1992, and was referred to the Senate Committee on Commerce, Science and Transportation. Unfortunately, no further action was taken before the end of the 102nd Congress.

At present, the coastwise trade laws of the United States require that all merchandise and passengers transported between two

points in the United States be carried on vessels that are U.S. flag, U.S. owned and U.S. built.

However, many vessels are now sailing in and out of the same port. This is not a direct violation of the letter of the law, but it does violate the intent of the statute passed by Congress. It is time we close this loophole.

I would like to thank our witnesses for appearing here today. Your contributions will be of great help to us in our efforts to address this problem.

The Chair now recognizes the Ranking Minority Member, Mr. Bateman.

Mr. BATEMAN. Thank you very much, Mr. Chairman.

First I would ask unanimous consent that the statement of our colleague, Mr. Fields from Texas, be entered into the record, he being unable to be here personally at this point.

Mr. LIPINSKI. Without objection, so ordered.

[The statement of Mr. Fields follows:]

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS, AND RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. Chairman, I am pleased to join you and the other Members of the Subcommittee at this hearing on H.R. 1250, introduced by our friend and colleague the Honorable Gene Taylor, and cosponsored by a number of Members of the Committee on Merchant Marine and Fisheries.

This legislation is a revised version of a bill that our Committee approved last year, and which was passed by the House of Representatives. Due to matters beyond our control, the Senate did not approve the bill. Therefore, we find ourselves having to start over again.

This bill represents a major step forward in providing American companies the opportunity to become involved in the extremely lucrative "cruise-to-nowhere" trade. These voyages being conducted exclusively by foreign-owned, foreign-flagged, and foreign-manned cruise ships represent a significant economic growth potential. Through Administrative determinations—with which the Members of the Merchant Marine and Fisheries Committee do not agree—the United States Customs Service has allowed these foreign operations to continue.

Mr. Chairman, it is time for the Congress to change this situation. H.R. 1250 would result in the phaseout of the foreign ships. It would allow the foreign-flag operators to continue to operate for five years if they place American merchant seamen onboard their ships. However, if they were to choose not to do this, their operations would have to cease by January 1, 1994.

I realize that there may be an operator currently providing a "cruise-to-nowhere" service for which this legislation could represent a substantial economic hardship. If that operator is able to convince the Members of Congress that his case is special, then possibly there should be some specific "grandfather right" made available to that operator. However, until we hear from existing operators I believe that this legislation represents an appropriate first step in the legislative process.

I hope that the private sector witnesses today will be able to share with the Committee their knowledge of this sector of the maritime industry. I hope that sometime in the very near future the Administration will be able to respond to our Committee with its views on this legislation so that we will be in a position to move the bill forward.

Thank you, Mr. Chairman. I look forward to a productive hearing.

STATEMENT OF HON. HERBERT H. BATEMAN, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. BATEMAN. Mr. Chairman, I want to thank Mr. Taylor for reintroducing this cruise-to-nowhere bill and doing so so early in the session. I particularly want to thank you for asking me to be an original cosponsor of the legislation.

I also want to thank you, Mr. Chairman, for scheduling the hearing so promptly. As noted above, this is important legislation. It is very timely. But it is somewhat different from last year's draft.

I want very much to see this trade occupied by U.S.-flag, U.S.-built and U.S.-crewed vessels. First, we need the shipboard JOBS that would be created.

Second, we need the tax revenues that would be generated.

Third, we need the serious production that would be generated for our domestic shipyards.

I hope today's hearings will focus on those operators who are engaged in these trades, not with the goal of targeting their operations, but with the goal of reaching a practical, equitable and passable bill.

I am very pleased to be an original cosponsor of the bill and look forward to working with its principal patron and other Members of the committee and people in the industry in order to see that we do have a bill in its final form which will be as equitable and as feasible and as beneficial as possible to the American-flag merchant marine.

Mr. LIPINSKI. Thank you, Mr. Bateman.

I would like to now request unanimous consent to enter into the record the statement of the Chairman of the full Committee of Merchant Marine and Fisheries, Chairman Studds. Without objection, so ordered.

[The statement of Chairman Studds follows:]

STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

I am pleased that the Subcommittee is holding this hearing today on H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, because it is imperative that we close the loophole in the rulings by the Customs Service which allows foreign-flag ships to offer voyages-to-nowhere.

Common sense should dictate that passenger voyages to and from one point in the United States and voyages between two points in the United States should be treated the same. Unfortunately, this is not the case today.

Voyages-to-nowhere are not in foreign commerce—they do not even enter a foreign port. Vessels offering these voyages are clearly engaged in the domestic commerce of the United States and should be subject to our coastwise trade laws, manning laws, and Coast Guard inspection laws.

Aside from injecting an element of common sense into the regulations of the cruise industry, enactment of this legislation means jobs for U.S. shipyards and seagoing labor—as well as the likely expansion of the U.S.-flag merchant marine. It will also ensure that U.S. passengers are transported on vessels that meet the highest safety standards in the world—those prescribed by the United States Coast Guard.

This legislation is very similar to H.R. 3282 as passed by the House last Congress with the exception that the number of "grandfather clauses" that would phase out existing foreign-flag voyages-to-nowhere have been decreased.

I look forward to hearing the testimony today and am hopeful that the United States-Flag Passenger Vessel Act of 1993 will be enacted into law this Session.

Mr. LIPINSKI. The Chair now recognizes the author and chief sponsor of this piece of legislation, Mr. Taylor.

STATEMENT OF HON. GENE TAYLOR, A U.S. REPRESENTATIVE FROM MISSISSIPPI

Mr. TAYLOR. Thank you, Chairman Lipinski. I want to thank you for holding this hearings. I want to thank you, and Mr. Bateman

and Mr. Fields and Mr. Studds and Mr. Tauzin, for being cosponsors.

I would like to ask unanimous consent that my statement be entered into the record.

Mr. LIPINSKI. Without objection, it will be so ordered.

Mr. TAYLOR. I appreciate this subcommittee and this full committee passing this measure last year unanimously. It is a fairness question, and in particular for the representatives of the foreign cruise ships who are present here today, I would like to remind you that this is a fairness issue dealing with the people who pay our salaries.

The present law requires a ship if it goes from one port to another port here in America, that it has to be made in America, be American crewed, it has to be Coast Guard inspected, it has to be repaired in an American shipyard.

However, if a ship sails a mere 12 miles out to sea, under a loophole created in the law by Customs Department interpretation, it can be foreign made, foreign crewed, foreign owned, and not pay one cent in U.S. taxes. That is just not fair. It is a scam.

And let me say this again. This is a scam that is going on, and it hurts the American person, it hurts the American seaman, it hurts the American shipyard worker, and above all it hurts the American taxpayer.

So this bill is an effort to end a scam that has gone on at least 50 years, and quite frankly I was very pleased that the House passed it last year. I was disappointed that the Senate chose not to bring it up.

But again, Mr. Lipinski, I would like to remind this committee that I found it very interesting that I was offered a free cruise, they offered me and my family a free cruise so I could come down and learn about their operation. They were going to educate me. I don't think they were going to teach my four-year-old much about a ship. I doubt they would have taught my 10-year-old daughter about a ship. I know they wouldn't have taught my 14-year-old daughter about a ship. I see that as some form of subtle bribery.

They also mentioned in their offer that several Members of the U.S. Senate had already had these cruises.

And I would like to ask this committee that if we don't see some action this year on the part of the U.S. Senate, that we turn around and subpoena the records of those foreign cruise ship lines as to who they have provided free cruises to should there not be much action in the other body in short order on this issue.

[The statement of Mr. Taylor follows:]

STATEMENT OF HON. GENE TAYLOR, A U.S. REPRESENTATIVE FROM MISSISSIPPI

Thank you, Mr. Chairman, for giving me the opportunity to testify on H.R. 1250, the United States-Flag Passenger Vessel Act of 1993. Last May, I introduced a similar bill (H.R. 5257) which was considered by this Subcommittee and eventually passed the House. Unfortunately, H.R. 5257 was not considered by the Senate before the 102nd Congress adjourned. I introduced this legislation with the hope that its passage will help put more Americans to work and will rectify an interpretation of the Passenger Vessel Act of 1886 which places our own cruiseship industry at a competitive disadvantage with their foreign counterparts.

Since 1952, our government has essentially handed the lucrative cruise ship industry to foreign interests. Over the years, myopic legislation and Administration blunders have created a system that discriminates against our citizens—a system

that holds U.S. cruise ships to higher standards and costs than their foreign competitors who are moored across the dock from them.

U.S.-flag cruise ships are required to be built, crewed, Coast Guard inspected, and to pay U.S. corporate taxes. Across the American taxpayer built wharf from them are foreign-flag competitors. These ships are built at foreign subsidized shipyards and are exempted from U.S. safety, labor and tax requirements.

Since my election to Congress in October 1989, I have worked on legislation which would change the laws which place U.S. interests at a serious disadvantage to foreign-flag cruise ships.

With the help of my colleagues, many of whom are still Members of this Subcommittee, we passed legislation that repealed a 40-year old law that prohibited American-flag vessels from having gaming devices on board ships in U.S. territorial waters (between three and 12 miles from shore) and international waters. Prior to 1992, only foreign-flag vessels could engage in gaming activities in U.S. territorial waters. Since gaming accounts for about 20 percent of most cruise ships' revenues, you can understand the economic disadvantage that it caused our citizens.

Some of the oldest laws in our Republic are the so-called Cabotage Laws (from the French word meaning "between the capes"). These laws reserved all coastwise commerce for U.S.-made, owned, and crewed ships. The spirit of the cabotage laws was embodied and codified in Title 46, U.S. Code, Section 289 which provides that "no foreign vessel shall transport passengers between ports or places in the United States. . ." The U.S. Customs Service has ruled that 46 USC 289 does not prohibit a foreign-flag cruise vessel from leaving and returning to the same American port with no stops at any foreign port.

This Customs Service ruling has created a loophole in the law. The loophole exempts foreign-flag vessels from U.S. law if they sail a mere 12 miles out to sea to international waters, turn around and come back. This has given rise to a foreign-flag cruise-to-nowhere industry which operates out of U.S. ports and is dependent upon American passengers and American dollars. These foreign-flag cruise-to-nowhere vessels are making millions of dollars in profits without paying one cent in taxes to the U.S. Treasury. Worldwide, 85 percent of cruise ship passengers are Americans and 80 percent of the itineraries involve American ports. They spend an estimated $8–10 billion a year. Yet, less than three percent of this money is spent on American-flag ships because our government allows these foreign vessels all of the privileges of doing business in America but without them paying any of the costs.

Thank you, Mr. Chairman and my fellow Members of the Subcommittee, for your consideration of this very important measure.

Mr. LIPINSKI. Mr. Taylor, you have my word that we will be happy to do that.

Mr. Bateman, do you have anything to say on that subject?

Mr. BATEMAN. Not at this time.

Mr. LIPINSKI. Thank you.

Mr. BATEMAN. If I may, Mr. Chairman, let me make a comment that came to me early on in my service in the House of Representatives from a now deceased former Member of Congress from Virginia, who said, "Herb, you know, we really wouldn't need a Senate if the Constitution didn't require it." So I will let it go at that for now.

Mr. LIPINSKI. Mr. Green?

Mr. GREEN. Thank you, Mr. Chairman. I have no opening statement. Thank you.

Mr. LIPINSKI. Mr. Stupak?

Mr. STUPAK. No opening statement. Thank you.

Mr. LIPINSKI. The Chairman of our full committee, Chairman Studds, would be here this morning to participate in these hearings, but he has been requested by the leadership to attend the Democratic Caucus that is now going on. So that is the reason he is not here with us this morning. It is very possible that if the caucus adjourns in quick fashion, he will join us.

Our first two witnesses this morning who are seated at the table in front of us are Mr. John J. Stocker, President, Shipbuilders Council of America. And Mr. Harvey B. Walpert, Senior Vice President, Trinity Marine Group, Trinity Industries, Incorporated, representing the American Waterways Shipyard Conference.

Good morning, gentlemen. Mr. Stocker, I believe you are going to testify first, and the floor is yours.

STATEMENTS OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA; AND HARVEY B. WALPERT, SENIOR VICE PRESIDENT, TRINITY MARINE GROUP, TRINITY INDUSTRIES, INCORPORATED

STATEMENT OF JOHN J. STOCKER

Mr. STOCKER. Thank you, Mr. Chairman, very much. We appreciate this opportunity to appear before the subcommittee in support of H.R. 1250, the United States-Flag Passenger Vessel Act of 1993.

My name is John Stocker, and I am President of the Shipbuilders Council of America. As you know, Mr. Chairman; we are the national trade association which represents America's private shipyards and suppliers of marine equipment and services.

I would ask that my written statement be entered into the record.

Mr. LIPINSKI. Without objection, so ordered.

Mr. STOCKER. Before commenting on the legislation, Mr. Chairman, I would just like to point out to the subcommittee the current status of the U.S. shipbuilding and repair industry.

As many of the subcommittee Members know, prior to the 1980's, our industry had a healthy order book balanced equally between commercial and Navy work. In 1981, however, the Reagan administration terminated the construction differential subsidy program for the construction of commercial ships in the United States at the very same time when foreign governments began increasing their subsidy levels to their shipyards.

This unilateral action resulted in the collapse of commercial shipbuilding in the United States; the export of 120,000 shipyard and related jobs; and the closure of over 40 major shipyards. We are now an industry that is totally dependent on government work for our continued existence.

With the projected cuts in the Department of Defense budget, however, our industry faces the prospect of losing another 180,000—let me repeat that number—180,000 shipyard and related jobs by the year 1998, unless action is immediately taken to remove foreign governments from the commercial market.

I might add, Mr. Chairman, that in the construction of cruise ships, we see the most dramatic levels of subsidy support by these foreign governments.

The rapid contraction of our industry will mean that by the end of this decade we will have one, maybe two, large shipyards still operating and perhaps one or two medium-sized shipyards.

If we are to reverse this trend and ensure that the United States remains a participant in the construction of ships, and that we continue to provide thousands of highly skilled, well-paid industrial jobs, which contribute to the reduction of our national deficit, we

must convert this industry to the international commercial shipbuilding and repair market.

American yards are the world's most productive and competitive builders of the most technologically advanced ships. And those are the ships that we have built for the United States Navy and the United States Coast Guard over the past 40 years.

We can and must resume the lead in commercial production. The bill before this subcommittee today, the United States-Flag Passenger Vessels Act of 1993, is a first step in that direction. The purpose of the bill is to amend Section 27 of the Merchant Marine Act of 1920, commonly referred to as the Jones Act, to include within its coverage the transportation of passengers for voyages to nowhere and voyages between two points in the United States.

The need for this legislation is clear. It is to clarify the intent of the Passenger Vessels Act of 1886 and to close a loophole which has evolved in the voyage-to-nowhere cruise ship market in the U.S. coastwise trade.

The U.S. Customs service has already ruled that passenger ships engaged in point-to-point coastwise trade must be U.S. owned, U.S. crewed, and U.S. built, which is consistent with the requirements of the Jones Act. The bill before us would, in fact, codify this ruling in this area.

The principal thrust of the legislation, however, is to close a loophole that exists in the current voyage-to-nowhere trade. Currently, foreign-built and foreign-flag cruise ships are allowed to operate out of U.S. ports if they travel beyond the territorial seas of the United States, which is currently three miles, and return to the same port.

The intent of the Jones Act, as well as the Passenger Vessel Act, is that ships operating exclusively out of U.S. ports be U.S. built and U.S. flagged. The reason for the Jones Act is to help ensure that America has a viable shipyard base and merchant marine fleet for economic purposes and to respond to national defense emergencies.

American mariners and shipyards demonstrated their importance, and the importance of the Jones Act in the recent Persian Gulf conflict.

But in spite of these laws, foreign flag cruises to nowhere have been permitted to operate almost exclusively in U.S. waters because they do not stop at two points in those waters or call at two U.S. ports.

This market is a growing one, and, in fact, Mr. Chairman, the whole international cruise ship market is growing. The marketing association of the cruise line industry predicts that there will be 10 percent annual growth per year in this marketplace from now until the year 2000. So it is an important industry for U.S. shipyards.

This bill grandfathers in existing ships, it allows these ships to continue to operate in the trade, unless they are sold, until 1998, provided they employ U.S. crews by 1994.

This subcommittee needs to also recognize that, as important as this particular provision is, we are going to continue to have to mount an effort against the blatant and massive subsidy practices

of foreign governments in the construction and operation of cruise ships.

My statement, Mr. Chairman, indicates several examples of where these subsidies have in fact taken place and how significant they are.

I mention these subsidies to demonstrate that we cannot participate in this market as long as these subsidies exist. Some of our members are currently engaged in the construction of river cruisers, but as the cruise-to-nowhere trade is Americanized, ocean-going ships built for this market will serve as a springboard for American yards to enter the market for larger cruise ships once these subsidy practices are eliminated.

We can compete with foreign companies. We cannot compete against foreign governments.

In closing, Mr. Chairman, the Shipbuilders Council of America would like to thank the committee for its leadership on this legislation, and we fully support its enactment. This is a jobs bill and will provide a sorely needed stimulus to the American economy at no cost.

Thank you very much.

[The statement of Mr. Stocker can be found at end of hearing.]

Mr. LIPINSKI. Thank you very much for your statement.

Mr. Walpert?

STATEMENT OF HARVEY B. WALPERT

Mr. WALPERT. Thank you, Mr. Chairman.

My name is Harvey Walpert. I represent the second-tier shipyards as Vice President of the American Waterways Shipyard Conference. I am a shipbuilder and Senior Vice President of Trinity Marine Group, Incorporated, of Gulfport, Mississippi. We operate 12 yards, of which four are in Congressman Taylor's district.

I have submitted my written testimony to the committee and with your permission, I would like to emphasize several key points of interest to the second-tier shipyards.

Mr. LIPINSKI. Yes, we will accept your entire statement into the record without objection.

Mr. WALPERT. Thank you, sir.

First, I would like to thank and commend Congressman Taylor for his leadership and determination to get a bill to close a loophole of foreign vessels' cruises to nowhere. His continued efforts have made a positive impact on the Gulfport and Moss Point areas as well as many other communities throughout the country that are related to the marine industry. I personally enjoyed working with him, and appreciate having a Congressman who pays such close attention to his constituents and works to provide good-paying jobs.

Mr. Chairman, as Mr. Stocker said, this is clearly a jobs bill, a jobs bill of the ideal type. It will take no money from the Treasury, it involves no additional taxes, it helps preserve good-paying manufacturing jobs for an industry already decimated by unfair foreign government subsidies and the decline in U.S. Navy shipbuilding.

The American Waterways Shipyards Council staff has made an estimate on what the job impact may be by closing this loophole of

foreign flag cruises to nowhere. Their estimate is 50 to 100 new vessels at a cost of $2- to $3 million each. I am talking here just about vessels for the second-tier shipyards.

Over a two-year period this could represent as many as 2,000 jobs. Add to this the jobs that will be required for U.S. seamen, for the support industries that support the shipbuilding business, and you have U.S.-owned vessels operated and built by U.S. workers.

This is the kind of jobs bill we need now, and I certainly commend this committee for considering this type of legislation.

Thank you, sir.

[The statement of Mr. Walpert can be found at end of hearing.]

Mr. LIPINSKI. Thank you very much for your opening statement.

The Chair now recognizes the chief sponsor of this legislation, Congressman Taylor.

Mr. TAYLOR. Thank you, Chairman Lipinski.

Mr. Stocker, of the 23 nations around the world that build more ships than the United States of America, do you know how many of them get foreign aid in either military assistance or outright grants from the American taxpayer?

Mr. STOCKER. Mr. Taylor, I could provide that for the record, but I think off the top of my head, I think virtually every single one of them either gets military aid or we have ships or bases stationed in their country.

Mr. TAYLOR. It is 1993. Eight of them get military assistance. The remainder get money. The money ends up being over half of the foreign aid budget.

I want to commend you for bringing to the public's attention that what you are competing against is a government-sponsored yard in Japan to the tune of $1.8 billion a year; in Germany to the tune of about $1.5 billion a year. I want to thank you for your support in the passage of this, but also for reminding the public that is what we are up against. If we are going to have a jobs program in this country, let's do something that has meaning in the private sector.

I want to thank you, Mr. Walpert, for your testimony today.

I have no further questions.

Mr. LIPINSKI. Thank you, Mr. Taylor.

The Chair now recognizes our Ranking Minority Member, Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman.

I want to thank Mr. Stocker and Mr. Walpert for being here today and for very cogent statements. I have no questions.

I think that I would amplify what they have said. I think it is a distinct contribution to our discussion, and a very good statement on the dimensions of this particular problem which as it relates to the shipbuilding community.

Mr. LIPINSKI. Thank you.

The Chair recognizes Mr. Pickett.

Mr. PICKETT. Mr. Chairman, I want to thank our witnesses. But I believe I understand this legislation, since we did get into it last year. I just want to thank them for coming here today and making their statements to the committee.

Mr. LIPINSKI. Thank you.

The Chair recognizes Mr. Kingston.

Mr. KINGSTON. Thank you, Mr. Chairman.

Let me ask a question of Mr. Walpert or Mr. Stocker. How would this legislation affect cruise ships that are coming into the East Coast of Georgia and the East Coast of Florida. They are a very big tourist attraction at this point, and they are the ones going off into international waters doing cruises to nowhere and so forth. What effect does this legislation have on them?

Mr. STOCKER. Mr. Kingston, since the bill would grandfather in existing ships, it would not have an immediate effect.

I might point out, by the way, that it takes income to make tourists, and if we don't have jobs, we can't have tourists. So one of the issues we have to balance as we look at our economic strategy for the future is, how much do we concede to other countries who have policies and strategies that keep their firms in the marketplace while we generate the consumers of those products? You cannot consume if you don't have the ability to pay for that consumption.

Mr. KINGSTON. I don't want to be flippant, but I would say to have tourism, you have to keep visitors coming. For example, in our port, in our community, the number two industry is tourism. It is a big, big industry with people coming in and doing whatever they need to do, going on a cruise or whatever. And it creates many, many jobs.

I guess what I am wondering about is in the effects of this legislation, and I certainly—I am not against the legislation, I am just trying to get better clarification in my mind, in order to learn more about it so I can decide. Have you studied what impact this does have on tourism?

Mr. TAYLOR. Would the gentleman yield?

Mr. KINGSTON. There is, you know, a two-way street. I know when you are talking about jobs, you may talk about whose jobs we are reducing or whose jobs we are creating.

Mr. TAYLOR. Would the gentleman yield?

Mr. KINGSTON. Certainly.

Mr. TAYLOR. I realize this is your first year in Congress. We have had hearings on this for three years. The data that is publicly available is that 85 percent of all the people in the whole world who will get on a cruise ship this year will be Americans. They will spend somewhere between $8- and $10 billion. And yet less than 4 percent of that money will be spent on American-flagged vessels.

So we are the market, as far as the money. But we allow through different loopholes in the law foreign corporations to reap all the benefits, foreign shipyards, foreign sailors. It is just not fair.

Mr. KINGSTON. I am just thinking of the multiplier impact of having tourists come to a port city. Many of them aren't spending the night on the ship as much as they are spending the night in the hotel and going out on the ship and coming back. I am just concerned about that.

Mr. TAYLOR. In response to your question, would you rather have those tourists spend the night on a foreign-made, foreign-owned, foreign-crewed ship or an American-made, American-owned, American-staffed hotel across the dock from it? That is what we are competing against.

Mr. KINGSTON. I see what you are saying. I am just trying to make sure I understand and clarify it more in my mind in terms of what the impact is.

Mr. WALPERT. Sir, if the cruises to nowhere are profitable—and they are profitable to foreign operators—they would certainly be profitable to American operators operating in American-built ships. If these people are deprived from going into this market, nature abhors a vacuum and there will certainly be other vessels to take their place that will be built in our shipyards.

Mr. KINGSTON. Isn't it the fact that only foreign ships can have the gambling facilities on there?

Do you know, Mr. Taylor?

Mr. TAYLOR. Mr. Kingston, that was the case until last year at this time, when we passed the—I think it was the American-Flag Competitiveness Act of 1982. For about 40 years it had been—we had this horrible inequity where the foreign-flag vessel could have gambling devices on board. Outside our ports it is perfectly legal.

If an American did the same thing, he committed a felony. We have addressed that. We were hoping to follow up on that with this, which would reserve that space between the shoreline and international waters for American operators, just as it is the law for every tow boat, every fishing boat, every offshore supply boat and every passenger ferry. We are closing the loophole as far as cruises are concerned.

Mr. KINGSTON. Just one point of clarification. We don't have gambling ships in our area. We aren't looking for any. We don't want any. But we are representing other States where they like that sort of thing. I just want to make sure.

Mr. TAYLOR. Mr. Kingston, just for your information, the previous law change, because, again, I am a States' rights advocate, makes it perfectly clear that each State has to decide for themselves whether or not they want these type of vessels to call in their shores. If they don't want them, they are not going to go there.

Mr. KINGSTON. I appreciate it.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you.

Mr. Green?

Mr. GREEN. Thank you, Mr. Chairman.

I am green on the committee. Let me just ask some questions, Mr. Stocker. You mention the both in your testimony about the grandfathering—or Mr. Walpert—the current cruise ships will be grandfathered in for eternity?

Mr. WALPERT. 1998, is what I believe the bill provides.

Mr. GREEN. And you also mentioned that the current shipyards are building—I know one of the high growth in the gambling cruises is river boats and everywhere else, even Texas is considering gambling on our rivers. Are those river boats required to be built in U.S. shipyards?

Mr. WALPERT. Yes, sir.

Mr. GREEN. Are they required to be crewed by——

Mr. WALPERT. They are Jones Act vessels requiring U.S. ownership, U.S. built and U.S. manned.

Mr. GREEN. So that cruise ship on the Mississippi up in the Delta is crewed by U.S. people?

Mr. WALPERT. Yes, sir.

Mr. GREEN. Are there any current cruise ships that were built in U.S. yards or crewed by U.S. seamen that are the cruises to nowhere, as we call them?

Mr. WALPERT. Yes, sir, I think so. There was a vessel that Halter Marine built several years ago that was reflagged to a foreign flag so it could carry gambling devices. And it would have to come back into U.S. flagged, but we understand they are probably going to tie it up so it doesn't necessarily come into this bill. But there are one or two like that.

Mr. GREEN. Do you know where they are?

Mr. WALPERT. I think that is one in Mississippi.

Mr. TAYLOR. Will the gentleman yield?

Mr. GREEN. Sure.

Mr. TAYLOR. To give you the long synopsis of this——

Mr. GREEN. Is that the Pride of Mississippi?

Mr. TAYLOR. No, it is foreign made, and it has since been renamed for the third time.

Mr. GREEN. I know it used to be the Pride of Galveston or something.

Mr. TAYLOR. Five or six years ago some people wanted to have a cruise ship out of Mississippi, and we required in the State law that it had to be American flagged to operate out of our port. They came back to us and said, You can't do that, it is a felony if it is American flagged. So they took an American-made vessel, registered it in Panama so they could do what no American could do, which was sail out and come back with gambling devices on board.

The second part is, in the studies on all this, we discovered that there some very old laws called the cabotage laws, which reserve all coastwise commerce for American-made vessels. We are trying to include this along with everybody else.

The vessel you are making reference to called the Europa Star, it is being converted to a dock-side gaming vessel in the State of Mississippi. And quite honestly, when the question is raised, What becomes of these ships after five years, one option for those operators, either they can take them back to where they came from, or they can be sold for dock-side gaming operations in States like Mississippi and Louisiana. It is also legalized—I take it back.

Mr. WALPERT. It has to be waterborne, sir.

Mr. GREEN. But to your knowledge, other than the two examples you talked about, Mr. Taylor, there are no cruises to nowhere that were built or crewed by——

Mr. WALPERT. I don't know of any others, sir.

Mr. STOCKER. The only other U.S. passenger vessels are two ships operating in the Hawaiian islands.

Mr. GREEN. Thank you.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you, Mr. Green.

The Chair now recognizes Ms. Fowler.

Mrs. FOWLER. Thank you, Mr. Chairman.

As a Representative from the State of Florida—and I have a large port, and we also have a big tourism industry—I am con-

cerned also about the impact on jobs in that port, because we have a lot of jobs that are created through the tourist business and people coming in and out on these cruise ships.

So I am green also to this and learning about it, so I apologize if I ask questions that have been asked in the past, but that is why we new Members are here, is to learn.

Do you know if there are any U.S. shipbuilders who if this act was passed, plan to build ships to engage in this type of trade?

Mr. STOCKER. Congresswoman Fowler, there are a number of American shipyards that are looking at the cruise market who have been dissuaded from participating in that market because of the existence of these foreign subsidy practices but that would be prepared to build vessels to meet the needs of the cruise-to-nowhere business over the course of the next few years.

In fact, there is a shipyard right in the State of Florida that has been actively looking at designing and building a major ocean-going cruise vessel for some time.

Mrs. FOWLER. I would be interested in getting some of that information, because this is one of my concerns, that if we pass a bill like this that shuts it out and then we don't have our American shipyards follow through, then those of us who represent ports of tourism end up hurting ourselves tremendously and lose jobs in that area. You create jobs in one area but lose them in another, so you are not really benefiting in the long run.

The bill that passed the House last year had a 20-year phase-out period. Now, this bill all of a sudden goes to a five-year phase-out period. I would like to know why there was such a major change made in the bill from the bill that passed last year to this year.

Mr. TAYLOR. Ms. Fowler, we last year tried to work with some people, but the more I thought about it and the more some of the other cosponsors thought about it, we have people who are abusing the system today, they are getting the best of both worlds.

Our Coast Guard will rescue them if they catch on fire. Our policemen take care of a dock-side disturbance when they are there. The Corps of Engineers spends an enormous sum of money to maintain chattel so they can come in and out. Yet, these people don't pay corporate taxes.

Let's make this perfectly clear. They operate every single day of the year out of an American port that all of the American taxpayers are paying for, and they give nothing back. The person right across the dock from them who has a fishing boat, a tug boat, an offshore supply boat, he has got to live by all the rules, pay all the dues.

So quite honestly I think I am being pretty generous in giving them five years. I don't have many sympathy for them. They are taking advantage of our society and giving nothing back.

Mrs. FOWLER. I do know there was some language in here talking about people who had spent money investing in equipment based on U.S. laws, and at that time that was decided that 20 years would give them an adequate time to phase it out. Now you have decided you don't really need to worry about that, so five years is OK?

Mr. TAYLOR. I think five years is too much. I have moderated my view because some of the original cosponsors have asked me to. But

if they wanted to operate that same vessel on the Mississippi River, they could. It is just that simple.

So why do we have one set of laws for brown water and a different set of laws for green water? It is all American territorial sea, one way or the other.

Mrs. FOWLER. If I might ask another question, in reading some of the background on this, there was some information about the construction differential subsidy program that was phased out in 1981, and I gather that is when we started losing a lot of jobs in the shipbuilding industry.

Is the decision that when we do away with these foreign-made ships, that is going to be a sufficient help without having to go back to some sort of subsidy program, or are you looking at having to do both?

I am interested in long range. What are we looking at long range to help our shipbuilding industry most?

Mr. TAYLOR. I can only give you my opinion, since you asked for it. We have not subsidized what we call Jones Act trade, our turf, just from port to port within the United States. Certainly not in the past 15 years. And I am not an advocate of subsidizing the Jones Act, for the simple reason that the only people they are competing against are other Americans, so therefore you have a level playing field.

Again, this is one of the most profitable industries in the world. I am just saying that if it is a profitable industry where 85 percent of the money is coming from Americans, then I think 85 percent of the benefits ought to go to Americans.

Mrs. FOWLER. Thank you, Mr. Taylor. I appreciate it. I am learning on this and trying to decide how it is going to impact my area the most, too.

So, Mr. Stocker, I would be interested in that information in what countries are interested, U.S. shipbuilders, in pursuing this type of trade if we do pass something like this. I will be working with my port to get information on the economic impact on our port if something like this occurred.

Thank you.

Mr. LIPINSKI. Thank you.

Mr. Reed?

Mr. REED. Thank you, Mr. Chairman.

I want to commend Mr. Taylor for his efforts. To level the playing field and let American seamen and women work effectively.

I have a couple of specific questions. The witnesses or Mr. Taylor might be able to respond to them.

My first question is, as I read the proposed legislation, there is the possibility that it could be subverted by simply having one of these cruise ships call on a foreign port. I guess the best example would be coming out of Florida and stopping overnight in the Bahamas and then coming back to Florida.

Would that negate the legislation as Mr. Taylor has proposed it? And would that be likely?

Mr. STOCKER. It may turn out to be the response to the legislation. A lot of clever lawyers are working for the cruise industry operating out of the United States. And certainly under the current interpretation of the current statutes, the Passenger Vessel Act as

well as the Jones Act does permit cruise operators to call at a U.S. port, pick up passengers and take them to a foreign port and come back. And this legislation would not prohibit that from occurring.

That is why, in response to Ms. Fowler's concern, one of the reasons why there may not be a significant immediate impact on cruise operators operating outside of the United States is that they will continue to be permitted to pick up passengers in U.S. ports and take them to foreign destinations, which is a major portion of their current business base anyway.

Mr. REED. Let me follow up. We all, I think, and particularly those of us who supported Mr. Taylor's efforts last year, want this to work to the benefit of American naval construction and American crews. The economics of this business, these cruises to nowhere, would it suggest to you that essentially they will continue to call on one port, go out and come back, or will their attitude be to now find some port offshore, call for a brief moment—I presume they could call for a period of hours, perhaps—and then come back in? Is that the likely response to this legislation?

Mr. STOCKER. It may be, since there is no time requirement for actually staying in the foreign port before they can return to the United States. With the close geographic location to the Bahamas, certainly they could subvert the legislation by doing precisely that.

On the other hand, the advantage of cruises to nowhere for the cruise industry is that a significant amount of their income does come from casino operations on board the ship; and as long as that casino operation could continue in that overnight cruise to nowhere they would certainly not want to miss that potential revenue.

So it is difficult for to us speculate on what their reaction might be, but the situation, the scenario you posit might very well be the result.

Mr. REED. Let me follow up with another question—that might be best handled by Mr. Taylor. For the record, is any type of gambling authorized within American territorial waters controlled by the State? Does your legislation, Gene, specifically indicate that, or is it simply law.

Mr. TAYLOR. The bill that you were part of passage in the last Congress makes it perfectly clear that each State is sovereign within—between the shoreline and three miles. And if a State—they actually have to legalize it. And so if a State takes no action, it is illegal.

Mr. REED. Thank you very much, Mr. Taylor.

I think this legislation, as I did last year, is a commendable legislation, and basically I don't think it would force the operators to do anything draconian.

I again want to commend Mr. Taylor for his efforts.

Thank you, Mr. Chairman.

Mr. LIPINSKI. The Chair recognizes Mr. Diaz-Balart.

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

In my community we have a port that serves more cruise ships than anywhere else in the world. This is an area of great interest to my community. I am not one who has a dogmatic fear of subsidy programs as three-year monsters that have to be avoided at all

costs. I am very concerned that perhaps the act of 1981 has been detrimental to our country.

So legislation such as this is very interesting to me, and I am certainly learning a lot today. I look forward to hearing—I believe we have other witnesses, Mr. Chairman.

I think the questions have been very good of these two gentlemen, as well as their answers. I will review their statements in detail again later as well as the other witnesses.

I have no questions at this time. Thank you.

Mr. LIPINSKI. Thank you.

The Chair recognizes Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

If I may, do you know how many foreign-flagged vessels are involved in these so-called cruises to nowhere?

Mr. STOCKER. Mr. Stupak, my understanding is that there are dedicated cruise to nowhere trade vessels and vessels which are dedicated to the U.S. foreign port trade. These are two distinct markets.

Mr. STUPAK. When you say almost all of them, do you have any idea what that number would be? I guess I am trying it get a handle on it.

Mr. STOCKER. Well, the market is a significant one. As I said, to give you a specific number, I would have to give you the exact number of ships that are operating in and out of the United States. You have a witness later on this morning who can probably provide the answer to you on the number of ships operating out of the U.S.

Mr. WALPERT. There are large ships and small ships. As Mr. Stocker said, a lot of these vessels fit the vessels in between when they may do other things. But the staff of ACSC estimated somewhere between 100 and 115 that may be displaced if this legislation went through.

Mr. STOCKER. My staff has informed me there may be as many as 16 large ocean-going vessels operating just in the cruise-to-nowhere trade.

Mr. STUPAK. You mean around 2,000 passengers?

Mr. STOCKER. Yes, large ocean-going vessels of that type, that is right.

Mr. STUPAK. Do you have any idea—and again, maybe it is not fair to ask you this question, but let me ask it, maybe someone else can help us later as we move on—do you have any idea how many jobs this bill might open up in the U.S. shipbuilding industry?

Mr. STOCKER. Well, we believe—our estimate is that there will be at least 20 large ocean-going vessels that would be built in the remainder of this decade, and perhaps as many as 50 smaller ships, and we think this is a conservative estimate. It could provide anywhere from 10- to 15,000 jobs in the shipyards at a minimum. And if you count the supplier base, those people who manufacturer components that go on board these vessels, perhaps as many as another 30,000 jobs beyond that. So it is not insignificant.

Mr. WALPERT. We are looking at 2,000 jobs in the second-tier shipyards.

Mr. STUPAK. Thank you no.

No further questions, Mr. Chairman.

Mr. LIPINSKI. Thank you.

Mr. Young, do you have any questions?

Mr. YOUNG. No. I am here to learn.

Mr. LIPINSKI. Do we have anyone who wishes to further question these witnesses? It would appear as though we do not.

Gentlemen, I want to thank you very much for your presentation here this morning. I want to thank you for answering the questions. I think that you helped us very much, along with Mr. Taylor, in better understanding this legislation, and hopefully with your testimony it will aid and assist us in quickly passing this legislation into law.

Thank you very much.

Mr. STOCKER. Thank you, Mr. Chairman.

Mr. LIPINSKI. The next panel will approach. This panel will consist of Mr. Charles T. Crangle, Legislative Director, American Maritime Officers; Mr. Terry Turner, National Director of Political Action and Governmental Relations, Seafarers International Union; Captain John Walton, Assistant to the President, on behalf of Captain Timothy Brown, President, International Organization of Masters, Mates and Pilots.

Food morning, gentlemen. It is a pleasure to have you all here this morning.

I believe, Mr. Crangle, you are going to start off with the testimony.

STATEMENTS OF CHARLES T. CRANGLE, LEGISLATIVE DIRECTOR, AMERICAN MARITIME OFFICERS; TERRY TURNER, NATIONAL DIRECTOR OF POLITICAL ACTION AND GOVERNMENTAL RELATIONS, SEAFARERS INTERNATIONAL UNION; AND CAPTAIN JOHN WALTON, ASSISTANT TO THE PRESIDENT, ON BEHALF OF CAPTAIN TIMOTHY BROWN, PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES, AND PILOTS

STATEMENT OF CHARLES T. CRANGLE

Mr. CRANGLE. Thank you.

I have a more lengthy statement. I would ask you include it in the record, but I will just give you a brief summary of what we intend to say.

Mr. LIPINSKI. We appreciate that. Without objection, your entire statement will be placed in the record.

Mr. CRANGLE. American Maritime Officers, an organization representing licensed deck engineering and radio officers, is an affiliate of the Maritime Trades Department AFL-CIO, and we wish to register our support of H.R. 1250, the United States Passenger Vessel Act of 1993.

We support the passage of the bill because it will correct a misinterpretation of the Passenger Vessel Act of 1886. We support the passage of 1250 because it will allow American flag operators to participate in a trade that was originally intended for American flag vessels.

The passage of H.R. 1250 will provide jobs for our members and Coast Guard licensed and unlicensed mariners as the law was originally written. And we are the beneficiaries of the act of 1886. It will provide jobs for American shipyard workers. It will materially

improve—and I think this is one of the things I would like to address at some length—materially improve the safety conditions on vessels and the cruise to nowhere trade by providing English-speaking, U.S. Coast Guard licensed and documented mariners on these vessels, and also subjecting them to direct U.S. Coast Guard inspection.

With that brief synopsis, Mr. Chairman, we can get into the questions later, as I know you would like to do, and that is really the outline of what we have to say.

Thank you.

[The statement of Mr. Crangle can be found at end of hearing.]

Mr. LIPINSKI. Thank you.

Mr. Turner?

STATEMENT OF TERRY TURNER

Mr. TURNER. Mr. Chairman, Members of the subcommittee, the Seafarers International Union of North America represents thousands of American seamen working aboard U.S. flag vessels operating in both domestic and international trades. SIU members crew the only two U.S.-flag ocean-going passenger vessels, the Constitution and the Independence.

The SIU wishes to thank the subcommittee for the opportunity to express its strong support for H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, and urges this subcommittee to take rapid action to facilitate passage of this measure to promote U.S. flag operations.

Despite the provisions of U.S. cabotage laws such as the Passenger Service Act and the Jones Act, foreign flag vessels have historically used several imprecisions in statutory language to infiltrate the domestic market. Many of these areas of foreign activity in coastwise trade have now been closed. Non-coastwise qualified vessels may not engage in fishing, offshore supply vessels, waste hauling or ocean-mining activities within the United States' exclusive economic zone.

Now is the time to correct another major loophole in our cabotage laws and to properly reserve our domestic passenger trades for U.S. flag vessels by passing H.R. 1250.

The U.S. Customs Service has ruled that voyages to nowhere are round trips from the same point and not technically transportation between ports or places, and therefore foreign flag vessels may offer these itineraries from U.S. ports as long as they journey beyond the limit of U.S. territorial waters, currently for our purposes, three miles. While on the high seas, these vessels are largely exempt from U.S. jurisdiction.

It is self-evident that these voyages to nowhere, exclusively serving U.S. ports and U.S.-based passengers, are offering a purely domestic service that should be covered by U.S. cabotage law. The voyage-to-nowhere loophole of the Passenger Service Act clearly conflicts with U.S. policy of reserving domestic trades for U.S.-built, U.S.-manned, U.S.-owned, and U.S.-flag vessels.

The Passenger Service Act was passed in 1886, while the Jones Act was enacted in 1920, and similar coastwise trade protection has existed from the beginning of our nation's history. These historic

policies have stood the test of time and today are as vital, or more so, as when they were originally enacted.

However, when the Passenger Service Act was enacted, the cruise industry was a century away from its present stage of development, and voyages to nowhere were not even considered. It would have been ludicrous to suggest that the public would pay money to embark on a steamship of the 1880's, to be tossed about at sea for several hours, and not even get anywhere.

Despite this drafting oversight of more than a century ago, Congress, through its many amendments to the Jones Act to close analogous loopholes, has repeatedly made it clear that the domestic waterborne commerce should be reserved for U.S.-flag vessels.

Over the years the Jones Act has been amended numerous times to clarify its provisions. There is a wealth of rulings, case law, and other refinements that have continuously and actively refined the Jones Act's meaning. But the language of the Passenger Service Act has remained static. There has been relatively little enhancement of the statute from court cases or administrative rulings.

Foreign flag vessels offered numerous voyages-to-nowhere services from several areas of the nation. Most of the operations have been concentrated in Florida, and the Gulf Coast areas where the climate facilitates year-round operations.

U.S.-flag excursion vessels have been especially harmed in these areas and until recently have had difficulty directly competing with the foreign-flag vessels that do not have to abide by American laws and regulations. The foreign flag operators usually use older vessels often built and repaired in a subsidized foreign shipyard.

Perhaps the largest of the unfair competitive advantages is that foreign flag operators are usually owned by offshore corporations that pay significantly less in total taxes comparable to U.S. flag operators.

Foreign flag cruise ships that predominantly or exclusively are serving American citizens and ports employ tens of thousands of foreign seamen who are not subject to the Coast Guard training requirements, federally mandated merchant mariner background investigations, drug testing, U.S. labor laws, or the jurisdiction of our criminal statutes. Often, a lack of shipboard safety skills and the inability to communicate in English to passengers or even in a common language among the crew underscores a serious threat to passenger safety.

American merchant mariners must meet U.S. Coast Guard requirements, are drug tested, and are subjected to an FBI background check, and are able to communicate with passengers.

Still, the Coast Guard and National Transportation Safety Board have no authority to investigate accidents involving foreign flag ships once they are beyond our territorial waters.

Foreign flag cruises-to-nowhere operators frequently use their flags and international law as a shield between themselves and U.S. jurisdiction, taxes and law enforcement. With their exclusive use of U.S. ports, these vessels do not deserve the benefits and deference extended under maritime law to authentically international commerce by foreign vessels.

The best way to ensure the safety of American voyage-to-nowhere passengers is the revitalization of the U.S. flag cruise fleet, and H.R. 1250 is the best method to do that.

Thank you very much.

[The statement of Mr. Turner can be found at end of hearing.]

Mr. LIPINSKI. Thank you, Mr. Turner.

Captain Walton is next

STATEMENT OF CAPTAIN JOHN WALTON

Captain WALTON. My name is Captain John Walton. I am the Executive Assistant of Captain Timothy Brown, President, International Organization of Master, Mates and Pilots. I believe Captain Brown has already submitted a statement. I have a short summary.

Mr. LIPINSKI. That is correct. Without objection, his statement will be included in the record.

Captain WALTON. Simply put, Mr. Chairman, we strongly disagree with the Customs Service's interpretation of our coastwise shipping statute. It is illogical to conclude, as the Customs Service has concluded, that a vessel which leaves a domestic port returns to the same domestic port and never touches a foreign port, is not engaged in domestic trade.

This misinterpretation of U.S. laws has created the foreign-flag cruise-to-nowhere fleet comprised of foreign-built and foreign-crewed ships. This fleet created by the actions of a U.S. agency is nevertheless outside the scope of U.S. law.

These vessels need not comply with the safety laws, the operators need not pay taxes, and their crews are not subject to U.S. drug testing regulations.

As Congress and the administration struggle to create more job opportunities for American workers, the proposed legislation, by correcting Customs' misinterpretation of the law, can contribute significantly to the jobs-creation effort. It is something we believe should be done and must be done.

Finally, we support the inclusion of a reasonable limited grandfather provision for existing foreign cruise to nowhere vessels. It is not our intention that the enactment of this corrective legislation have an immediate adverse effect on port operations and economies.

In conclusion, the masters, mates and pilots strongly support the enactment of this legislation. We thank you, Mr. Chairman, for scheduling this hearing and we again thank Congressman Gene Taylor for his continued leadership in this area.

[The statement of Captain Brown can be found at end of hearing.]

Mr. LIPINSKI. Thank you, Captain Walton.

The Chair now recognizes Congressman Taylor.

Mr. TAYLOR. Mr. Chairman, I have no questions other than to thank these gentlemen for testifying on behalf of the bill.

Mr. LIPINSKI. The Chair now recognizes our Ranking Minority Member, Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman.

I have no questions of the panel of witnesses. I do want to express our appreciation for your being here, and let me use this occasion to reiterate my support for the objectives of this legislation. And I look forward to working with Mr. Taylor and the other Members of the committee to see that we do get this bill passed.

I have the same yiews on the subject matter as have been articulated by my friend, Mr. Taylor. Perhaps he has a little bit more passion about this than I do, and I admire that in him, as well as his many other good characteristics.

From the questions posed by my colleagues on this side of the committee table, I want to indicate to them that I look forward to working with them, sitting down with them, and discussing the implications of this bill on the particular areas of concern that they have.

Mr. Taylor is precisely correct. The witnesses in my view are precisely correct that we are dealing with an anomaly in the law and a trade that should have never been able to exist. But we cannot disregard the fact that it does exist.

And these people have been doing something which shouldn't have been legal, but by virtue of the improper or ill-advised interpretation of the law, they have been doing it legally. We cannot disregard that fact.

So I want to work to see that what we do is in keeping with that reality. We also, I think, need to investigate—and I will be doing this with our counsel and others—whether can we do something with this legislation that will make it impossible or certainly less likely for present foreign flag operators in this cruise-to-nowhere business who try to subvert it by simply cruising to the nearest port in the Bahamas and then returning.

We want to do something that is practical, we want to do something that is meaningful, and I think we need to investigate whether or not we can avoid that way of subverting it.

Mr. LIPINSKI. Thank you, Mr. Bateman.

I just want to say that I certainly concur with the last point that you made there. I think it would be tragic if we were to go through this legislation, get it passed by the House and the Senate, signed into law, and then we find out there is a loophole so wide in it that we will have accomplished nothing.

So I think that is something, Gene, that we really have to make sure we take care of.

The Chair recognizes Ms. Schenk.

Ms. SCHENK. Thank you, Mr. Chairman. I have no questions of the witnesses.

Mr. LIPINSKI. Mr. Young?

Mr. Reed?

Mr. REED. Mr. Chairman, I just want to thank the witnesses for coming forward. I know they have been very active in trying to correct this injustice, and do so for the benefit of not only the crews, but also for thousands of people we hope will be employed in American shipyards repairing these vessels and building these vessels.

I think this is an effort that is very important, and once again Mr. Taylor, I think, is the quarterback, the fullback, the halfback, and the entire frontline defense. Again, thank you.

Mr. LIPINSKI. Ms. Fowler?

Mrs. FOWLER. Thank you,. Mr. Chairman.

I really don't have any questions for these witnesses. I want to thank them for coming and assure them I will work with them. We have just got to strike a balance with our port industry and see what we can find as a good solution.

I do have one question, Mr. Chairman, I think probably again for Mr. Taylor, since he authored the bill. In reading the bill, I am not really clear what would happen if the bill were passed and the owner of one of these foreign ships decides then, OK, I can't stay in this business after 1998, so I want to sell my ship to a U.S.-owned company, wholly-owned U.S.-owned company. What procedures would then apply? Is that allowed? How would that be done?

Mr. TAYLOR. Ms. Fowler, there is a provision in the law that allows that. This Congress, in fact this committee, on about an annual basis is given a list of vessels that are requesting the privilege of reflagging American. It is decided on a case-by-case basis, usually in subcommittee, and then the full list is given to the full committee.

At that point, they have to agree to bring their vessel up to Coast Guard standards, employ nothing but Americans, comply with American tax laws, and put in at American shipyards once a year. There is a provision in the law that allows that.

The committee has been I think very generous in allowing these people to come back under the U.S. flag.

Mrs. FOWLER. So Congress acts anytime someone wants to sell their ship to a U.S. company? That takes an act of Congress for them to be able to do that?

Mr. TAYLOR. Yes, ma'am. For the simple reason that why have the law requiring that the ship be made here in the first place if we are just going to willy-nilly allow someone the advantages of making it in a foreign yard and then bringing it back? Why would anyone do business with Mr. Walton, or Mr.—if you think about it, you can get it built for half the price.

So people who have a request with a foreign-built ship, and say, OK, I think I deserve special attention in this case, they come to us on a case-by-case basis and ask permission and make a case as to why they should be allowed to purchase a foreign ship, as opposed to these gentlemen, and for better or worse, this Congress has been very generous in allowing those people to bring those ships back into the U.S. trade.

Mrs. FOWLER. So even if they were grandfathered in, and they could prove they have been operating in this trade for the years specified here, which I think this is a little different scenario than someone going out and building one and selling it to us, they would then have to go through that same procedure?

Mr. TAYLOR. The previous bill, the one that died mysteriously in the Senate, those vessels who were affected and knew that they wanted to reflag American, we included them by name in the bill, and I would be more than happy to do that now.

But my point is to draw a curtain on this unfair situation. I would do it today. That is not going to pass. I have compromised to five years with the point that we just don't continue this mistake forever.

Mrs. FOWLER. So, could I ask one more question, Mr. Chairman? Thank you.

If there was a decision that certain ones knew they wanted to sell, they would have to be put into the bill, and then they would be included, like you did in the bill before?

Mr. TAYLOR. Yes, ma'am.

Mrs. FOWLER. I will get last year's bill and read it through. Thank you.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you.

Mr. Stupak?

Mr. STUPAK. Thank you, Mr. Chairman.

I have one question for Mr. Turner. You indicated that these foreign-flag vessels are exempt from U.S. laws. How about basic inspection or review of safety equipment? Are they at least required to do that before they go out by the Coast Guard, just a review of safety equipment, inspect the equipment, make sure they have sufficient light bulbs and things like this?

Mr. TURNER. No, they are not.

Mr. STUPAK. Nothing?

Mr. TURNER. Nothing.

Mr. STUPAK. Thank you.

Mr. LIPINSKI. Mr. Diaz-Balart?

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

I would like to thank the witnesses for their input. I have no questions at this time.

Mr. LIPINSKI. Thank you.

Mr. Turner, you mentioned foreign operators pay significantly less in total taxes. Do you know just how big a difference there is between a foreign operator and an American operator in the same market area?

Mr. TURNER. We would be glad to provide that for the record.

Mr. Chairman, it is our understanding it is a huge difference. Lately I am told that in a large part due to this committee's efforts on last year's bill, that a lot of the foreign flag folks are negotiating, if you will, with the IRS to try to pay the portion of tax liabilities that they incur when they are in U.S. waters, which is a small fraction of their overall liabilities.

In 1985, just by example, between 1985 and 1988, if memory serves, Carnival Cruise had a tax liability, if it were a U.S. corporation, of $200 million. And not one penny was collected at that time.

Mr. LIPINSKI. You mentioned Carnival Cruise. We had a discussion yesterday about that briefly, about a commercial—I don't remember all the details, but a commercial that they have on TV. Do you remember details of that? Does anybody at the panel? Are we going to have to call upon Mr. Taylor to remember the details about that one?

Mr. CRANGLE. I think we had—Bill Moyers ran a program a few years ago based upon the Pulitzer Prize-winning series of articles in the Philadelphia Inquirer, and one of the evenings was devoted to the avoidance of tax liability by foreign corporations in the United States.

And they happened to choose Carnival—because I am sure any other foreign corporation that does a lot of advertising could have

been a target also—but they had the young lady, I think it is Kathy Lee Crosby, singing in voiceover. Bill Moyers and the two reporters are talking about, in voiceover, about the fact that this corporation, although it exists primarily and solely in the American market, was not paying American income taxes of any sort.

And the point that they did make, of course, is that the United States Coast Guard provides services for Carnival Cruise Lines. The United States Navy protects the sea lanes upon which these ships traverse. And they pay not one penny toward the burden that all of us in this room pay to protect the sea lanes in this country.

We have the ad on tape someplace. I think Mr. Taylor or one of his people have it. We tried to play it today, but we couldn't get a television set. We would be glad to copy it for the Members of the committee, if we are not violating copyright laws.

Mr. LIPINSKI. We have a copy, and anyone who wishes to see it, we will see to it that they do receive it so they can play it. I understand it is only about four minutes long.

Mr. CRANGLE. I think it is very short, sir.

Mr. LIPINSKI. I would like to have each one of you comment briefly, so we can move on, but just how significant you believe this legislation is toward revitalizing the American merchant marine industry.

It just seems to me that what we are dealing with here is a piece of legislation that can take a very significant step forward. There are many other things that we have to do, but it can be a very significant step forward in creating more jobs for Americans in shipyards, on ships, perhaps even steel mills.

From all of you, a quick comment on my comment.

Mr. TURNER. Mr. Chairman, I would just like to say that we are talking about literally thousands of seafaring jobs if this piece of legislation is passed. The same kinds of skills that it requires to man a cruise ship are the same kinds of skills that it takes to get a tanker across the seas during perilous times when we have a military operation.

This piece of legislation will really increase the manpower pool for active, vibrant, qualified seafarers. That is why we are 100 percent behind it.

Mr. LIPINSKI. Thank you.

Does anyone else have any questions?

Gentlemen, thank you very much for your testimony. You have helped us understand the legislation more and the need for the legislation. Thank you very much.

Mr. LIPINSKI. Our next witness is Mr. John T. Estes, President, International Council of Cruise Lines.

Thank you for joining us this morning, sir.

STATEMENT OF JOHN T. ESTES, PRESIDENT, INTERNATIONAL COUNCIL OF CRUISE LINES

Mr. ESTES. Thank you, Mr. Chairman.

It is a pleasure to be here. I have a brief statement which I have submitted, and I would appreciate being put in the record, with your kind permission.

Mr. LIPINSKI. Without objection, your statement will be placed in the record.

Mr. ESTES. Mr. Chairman, I represent the International Council of Cruise Lines, and let me, if I may, be specific and precise in the beginning, at least.

We do not engage in the cruise-to-nowhere business as a core business. None of our members are engaged in that business. We are engaged in the deep-sea, overnight, passenger, shipping business. Some of our members' names have been mentioned by others earlier to you this morning in the testimony, Carnival and Royal Caribbean and others. Those companies are not engaged in the cruise-to-nowhere business.

And it is with that prologue that I would just like to be precise so we know where we are coming from, who I represent and who I do not respect.

With that statement——

Mr. LIPINSKI. So what you are saying is that in regards to this piece of legislation, there is no one that you represent that would be affected by this legislation in regards to cruises to nowhere?

Mr. ESTES. That is correct. We do have concerns that the definition of coastwise trade be precise. So there is a fear there that we want to protect. But we are not engaged in the business of cruising to nowhere. We are not engaged in gambling ships where they go out three miles overnight and come back, that sort of thing.

Mr. LIPINSKI. Thank you.

Mr. ESTES. I might say, however, in response to your questions, sir, that we have from time to time occasions where a ship may be used in the coastwise trade. For example, when a new ship comes into the North American market, we will take that ship and allow it to be used to show it to travel agents. And we will take the travel agents out and then bring it back overnight, that sort of thing. That is a blip. It is not the normal, routine course of business.

There are occasions when a ship may be used for charitable purposes, and the proceeds of the voyage would go to a charity. Those again are blips, and not the core business. And they are not loopholes. We could give that business up and it would make no difference whatsoever with respect to what we do.

The familiarity cruises are helpful because most of our passenger tickets are sold by travel agents in the United States and it is helpful for them to know the product. The charitable thing is nice to do when we can do it. And there are other occasions when a ship may be going into dry-dock, and there may be a week or 10 days before and after or before or after when the utilization of the ship may be used for that sort of thing.

But the routine business, the ongoing business, 95 percent of the business is not a cruise-to-nowhere business. And we could give up the cruise to nowhere and all of its aspects, those little things I mentioned in it would present no problem to us.

But I do want to make perfectly clear, if I might, sir, that we are not in that business. But I do want to mention to you a few little areas where we have some concern. We testified in this regard last year, and the report to the bill did, I think, indicate to some degree of satisfaction where our problems are.

We, for example, would hope that the legislation would make it very clear that the cruise-to-nowhere definition as applied in this legislation does not include foreign commerce voyages, and I think that is the intent for a ship that leaves the United States and goes into foreign commerce goes to a foreign country and comes back, that that voyage should not be covered.

That is what we do. We take people out of Miami, for example, and go to the Caribbean, they are out there for a week, and come back. That sort of thing should definitely not be covered, and we don't think that is the intent of the bill.

There was some confusion in the bill last year between the technical definition of depart and disembark for a passenger. When a passenger disembarks a cruise, that means they are leaving it for good, they are finished. When a passenger departs from a vessel, that is just a temporary sort of thing; he goes on an island or visits a city or something and comes back on. It was in the record last year that the depart aspect and not the disembark is what was addressed in the bill.

Secondly, if there is an emergency situation where a ship has to go out and come back with respect to an emergency, clearly that should not place it because of an emergency into a prohibited coastwise definition, and thereby be subject to penalties, that we are particularly concerned about that sort of thing. That is clearly, I think, not the intention.

Lastly, there is a relatively technical but meaningful customs regulation involving foreign distant ports, and that is important to us. And we would want to be sure that is not covered by the bill, and I think the intent of the bill last year in the report language said that.

So those are the things, Mr. Chairman, more or less technical things that we would like protected.

[The statement of Mr. Estes can be found at end of hearing.]

Mr. LIPINSKI. Thank you, sir.

Mr. Taylor?

Mr. TAYLOR. Not so much a question as a statement, Mr. Chairman. Obviously one of the objects of the bill is to close loopholes. Quite honestly, I, even as the sponsor of the bill, am not particularly comfortable with how we have approached the situation mentioned by Mr. Estes, when we define passenger on these voyages, these familiarization voyages, because quite honestly what we do is say, if you don't charge people to get on board, it is just a familiarization voyage.

Quite honestly, when you look at the total revenues of a gaming ship, of a dinner cruise, the cost of admission is minuscule compared to the revenues from the dinner, from the gaming. And I am looking for some guidance, and both the Majority and Minority staff have been very helpful, but I would like to further tighten down the language in this so that it is not abused.

The last thing we want to do is after all of this work, after hopefully getting it through the Senate and on the President's desk, is leave a loophole where someone could operate a foreign flag gaming or dinner vessel and say, It is free to get on board but you have got to pay for everything else, and therefore escape the provisions of this bill.

So I do want to in a way echo what Mr. Estes says. I don't have a problem with Carnival saying, We've got a new service that we will bring into may port, Florida, and we want to take the local officials out one time. I do have a problem with using that excuse to operate a cruise to nowhere forever.

So I want to bring this to the committee's attention and ask for their guidance in how we address that. Thank you.

Mr. LIPINSKI. Thank you.

Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman.

I want to thank Mr. Estes for being with us this morning. I think he raises points that we need to make sure are properly addressed in the bill without creating, as Mr. Taylor has suggested, or expressed a concern, some egregious loophole.

Certainly I am going to approach it on the basis of trying to make sure we don't open up the loopholes, but making sure that we don't follow the doctrine of unintended consequences where we disrupt practices that this bill is not really aimed at, while at the same time not creating the loopholes Mr. Taylor fears. I think we can do that, working with you, with him, with others to see we accomplish it.

Mr. LIPINSKI. I echo the statement of Mr. Bateman also.

Ms. Schenk?

Ms. SCHENK. Thank you, Mr. Chairman.

Not so much a question as just an observation, having just come off the port commission in San Diego where we are dealing with problems created by really Federal law being interpreted one way or another by our Attorney General, who then introduced laws, we now not only don't have cruises to nowhere, we don't have cruises coming into the port of San Diego at all.

So while this is very important, and I wholeheartedly support it, I do hope that we can find language that does encourage the business of cruise ships, and certainly familiarity cruises are important to that.

I know that in San Diego, travel agents and others who are in the convention visitor business made use of these familiarity cruises to sell cruises. And so if there is some way that we can make sure that this is protected in the legislation—and, Mr. Taylor, perhaps I can work with you a little bit on some language so that as we guard against some of the abuses that we are trying to guard against, that we don't also somehow cut off what is an important way of generating business.

Thank you.

Mr. LIPINSKI. Ms. Fowler?

Mrs. FOWLER. Thank you, Mr. Chairman.

I just want to thank Mr. Estes for coming. I think he has raised some points—I read your testimony—that do need to be considered if we work on the language in the bill. And again, hopefully we can take care of those considerations without opening up the big loopholes Mr. Bateman was concerned with too.

So as I said earlier and as Ms. Schenk said, we need to strike a balance and try to continue to promote our cruise business yet open up jobs to our shipbuilding industry.

Thank you.

Mr. LIPINSKI. Mr. Reed?

Mr. REED. Thank you, Mr. Chairman.

I just have a comment. We are talking about a very specific issue here today which is the cruise to nowhere. And behind that is a much more general issue. We have a multi-billion dollar industry that is supported substantially by Americans, and yet most if not all the operators are foreign ships with foreign crews, who repair their vessels overseas, derive great profits and pay little in taxes.

I frankly don't think any other nation would be that generous in its policies with respect to market access. And this is not something where we should fear that if we were a little bit tougher they would go someplace else, because essentially they are exploiting the American market, which I don't think they will find any place else in the world.

So I commend Mr. Taylor's efforts. But I think a much broader effort should be undertaken to try to level the playing field and get more American ships serving this American market, this very unique American market.

Thank you, Mr. Estes.

Mr. ESTES. Do you wish me to respond? But maybe I could comment.

Mr. LIPINSKI. Go right ahead.

Mr. ESTES. I do want to preface my remarks, Mr. Reed, by saying we support Mr. Taylor's efforts in this regard. There are a number of reasons—commercial, moral, safety reasons—that we think Congressman Taylor's bill should be supported as Americans.

Let me address for a second your concerns which I think I sensed both from the witnesses that appeared before me as well as from some of the good-faith questions that the Members of the committee have asked. And it is an area that our association has addressed, and we are addressing.

There is a concern that because we fly foreign flags, and because we have our ships built largely if not exclusively in foreign yards, and because many of the ships are crewed by foreigners, that what has resulted is one gigantic problem, if not rip-off, of the American consumer and the American economy.

We know that is not true. We know it is not true for the same reason that we knew when we were accused of not having safe ships because we flew foreign flags, that that was not true. We knew that the IMO standards, International Maritime Organization standards, were stricter than the Coast Guard standards for safety. And we hired the ABS, who does work for the Coast Guard, to conduct an arms-length study, and we put that in the record before the committee last year.

We have the same problem with respect to the economic situation. We retained Price Waterhouse. We just completed a study to advise us what the economic consequences are of the cruise industry in the United States. And I will make a copy of that available to you.

In fact, I would be pleased to make one available for the record, if you would permit me, Mr. Chairman.

Mr. LIPINSKI. You did give me a copy when you visited me. I would also be happy to make it available to all of the committee Members that would request it.

Mr. ESTES. They concluded in this study that in 1992, for example, this industry was responsible for generating 450,000 American jobs—American jobs—in 1992 in this country. They concluded that this industry paid $14.9 billion in compensation to Americans in 1992, which was then circulated into the economy and had a domino effect. They concluded that we paid $6.2 billion in Federal tax and State taxes, that we paid over $95 million in port fees, and that we paid some $600 million in sales taxes.

Now, when you put all of that together, there is a very definite economic impact that the industry makes. And just as I mentioned the safety issue, we think it is important that the sort of concern in good faith that you expressed be placed into a factual context of what does the industry bring to the table, to the economic table.

In the next four years we will be bringing in more ships, something like another 10 to 13 more ships. As a result of that, Congressman Reed, America will have another 135,000 Americans employed in the United States. That is in the next four years.

The President has asked for $20 billion, roughly, to make jobs for 500,000 Americans. This industry alone, because of its expansion in this market, will create jobs for 135,000 Americans at no drain on the Treasury. In fact, it will be a positive impact on the Treasury.

I don't want to go on, Mr. Chairman.

Mr. LIPINSKI. I was going to say, you have made a fine presentation but your time is up. You are making a presentation on something that hopefully is not affected by this bill.

Mr. Diaz-Balart?

Mr. DIAZ-BALART. Mr. Chairman, I guess my question I am not sure is really one to be asked of this witness. Is there no one in opposition to this legislation? If not, why aren't they testifying? Or is it simply a point that is accepted by everyone by consensus, or they think they can't stop it?

Mr. LIPINSKI. I checked with my staff and they said no one came forward to testify in opposition to this magnificent piece of legislation. I suppose when the Chairman of the committee's name is on there and the Ranking Member of the committee, and the Chairman of the subcommittee and the Ranking Member of the subcommittee's name is on there, people might be a little bit hesitant to come forward and testify against the bill.

Mr. BATEMAN. My office will remain open to them if they want to come in and talk about it. But I can't be accountable for their not coming and testifying.

Mr. LIPINSKI. I will echo those sentiments also.

Do we have any more questions? No more questions?

Thank you very much for your testimony. We appreciate you being here today.

And I want to say I appreciate all the Members of the committee being here today. I appreciate the questions they asked. I hope it was informative. And you will be hearing from us very soon in regards to this legislation.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned, and the following was submitted for the record:]

I

103D CONGRESS
1ST SESSION

H. R. 1250

To amend the coastwise trade laws to clarify their application to certain passenger vessels.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. TAYLOR of Mississippi (for himself, Mr. STUDDS, Mr. LIPINSKI, Mr. FIELDS of Texas, Mr. BATEMAN, and Mr. TAUZIN) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

---

A BILL

To amend the coastwise trade laws to clarify their application to certain passenger vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Flag Passenger Vessel Act of 1993".

SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

1 **"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.**

2 "(a) IN GENERAL.—Except as otherwise provided by
3 law, a vessel may transport passengers in coastwise trade
4 only if—

5 "(1) the vessel meets the requirements of sec-
6 tion 27 of the Merchant Marine Act, 1920 and sec-
7 tion 2 of the Shipping Act, 1916 for engaging in the
8 coastwise trade; and

9 "(2) for a vessel that is at least 5 net tons, the
10 vessel is documented under chapter 121 of title 46,
11 United States Code, with a coastwise endorsement.

12 "(b) PENALTIES.—

13 "(1) CIVIL PENALTY.—A person operating a
14 vessel in violation of this section is liable to the
15 United States Government for a civil penalty of
16 $1,000 for each passenger transported in violation of
17 this section.

18 "(2) FORFEITURE.—A vessel operated in know-
19 ing violation of this section, and its equipment, are
20 liable to seizure by and forfeiture to the United
21 States Government.

22 "(c) DEFINITIONS.—For purposes of this section the
23 following definitions apply:

24 "(1) COASTWISE TRADE.—The term 'coastwise
25 trade' includes—

"(A) transportation of a passenger from a place in any State or possession of the United States and returning to that place, if during that transportation no passenger departs from the vessel in a foreign country; and

"(B) transportation of a passenger between points in the United States, either directly or by way of a foreign port.

"(2) PASSENGER.—The term 'passenger' has the meaning that term has in section 2101 of title 46, United States Code, except that the term does not include a guest on a passenger vessel (as that term is defined in that section) who has not contributed consideration for carriage on board.".

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), an ineligible vessel may engage in coastwise trade (as defined in that amendment) on a trade route, if—

(A) the vessel engaged, in the period beginning January 1, 1990, and ending January 1, 1992, in coastwise trade on that trade route; and

(B) within one year after the date of the enactment of this Act, the owner files with the

1 Secretary of Transportation an affidavit certify-
2 ing compliance with subparagraph (A) and list-
3 ing each trade route on which the vessel en-
4 gaged in coastwise trade in the period described
5 in subparagraph (A).
6 (2) EXPIRATION OF EXCEPTION.—This sub-
7 section does not apply to a vessel after the earlier
8 of—
9 (A) any date on which the vessel is sold
10 after the date of the enactment of this Act;
11 (B) January 1, 1994, unless—
12 (i) each individual employed on the
13 vessel after that date is either a citizen of
14 the United States or an alien lawfully ad-
15 mitted to the United States for permanent
16 residence; and
17 (ii) not more than 25 percent of the
18 total number of individuals employed on
19 the vessel after that date are aliens law-
20 fully admitted to the United States for
21 permanent residence; or
22 (C) January 1, 1998.
23 (3) INELIGIBLE VESSEL DEFINED.—In this
24 subsection, the term "ineligible vessel" means a ves-
25 sel that is not eligible under chapter 121 of title 46,

1 United States Code, for a certificate of documenta-
2 tion authorizing the vessel to engage in the coastwise
3 trade.

○

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

March 9, 1993

BACKGROUND MEMO

TO : MEMBERS, SUBCOMMITTEE ON MERCHANT MARINE

FROM : WILLIAM O. LIPINSKI, CHAIRMAN

SUBJECT : HEARING ON H.R. 1250 THE UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

The Subcommittee on Merchant Marine will hold a hearing on H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, in 1334 Longworth HOB at 10:00 a.m. on Thursday, March 11, 1993. This legislation is intended to amend the coastwise trade laws to clarify their application to certain passenger vessels.

Scheduled to appear before the Subcommittee are representatives of the U.S. shipbuilding industry, maritime unions, and vessel operators.

BACKGROUND

The coastwise trade laws of the United States require that all merchandise and passengers transported between two points in the United States be carried on vessels that are U.S.-flag, U.S.-owned, and U.S.-built. This portion of the coastwise laws is comprised of two statutes, the Passenger Vessel Act of 1886 and the Merchant Marine Act of 1920(commonly known as the Jones Act).

The Passenger Vessel Act of 1886 (46 App. U.S.C. 289) states that: "No foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port."

A "voyage-to-nowhere" or "cruise-to-nowhere" is a voyage from a port in the United States, beyond the territorial seas of the United States (for this purpose, generally three miles), and returning to the same port. These vessels generally take passengers on entertainment, gambling, and dinner cruises. Under rulings issued by the Customs Service, foreign-flag vessels may engage in most voyage-to-nowhere cruises.

Conversely, Customs has ruled that a "head boat" (charter fishing boat) falls within the coastwise trade laws and must be U.S.-flag, U.S.-built, and U.S.-owned. This creates an anomaly between two varieties of identical vessels: if one takes

passengers fishing, it must be U.S.-flag; if the other takes people on a dinner cruise, it may be foreign-flag.

The 1886 Act does not explicitly state that the U.S.-flag vessel must be built in the United States or owned by U.S. citizens. However, the Customs Service and the courts have required the U.S. building and ownership standards under their rulings.

During the 102nd Congress, Representative Gene Taylor (D-MS) introduced the United States-Flag Passenger Vessel Act of 1992, H.R. 5257. The Subcommittee on Merchant Marine held a hearing on H.R. 5257 on June 11, 1992.(See printed Hearing No. 102-98)

On June 18, 1992 the Subcommittee marked up the bill and reported it with an amendment. On July 1, 1992, the Committee on Merchant Marine and Fisheries marked up H.R. 5257 and ordered the bill reported to the House as amended by voice vote.(H.Report 102-835 was filed August 11, 1992) The House passed H.R. 5257 on September 22, 1992 by voice vote. It was referred to the Senate Committee on Commerce, Science, and Transportation, which took no action on the bill during the 102nd Congress.

LEGISLATION

H.R. 1250 amends Section 8 of the Passenger Vessel Act of 1886 (46 App. U.S.C. 289) to require passenger vessels to meet the requirements of Section 27 of the Merchant Marine Act of 1920, commonly known as the Jones Act(46 App. U.S.C. 883), and Section 2 of the Shipping Act of 1916(46 App. U.S.C. 802).

By bringing passenger vessels under the Jones Act, any vessel traveling in "coastwise trade" must be U.S.-flag, U.S.-built. The language from Section 2 of the 1916 Act requires that the controlling interest in a vessel owned by a coalition, partnership, or association must be American for that vessel to be considered U.S.-owned. This section clarifies that the transportation of merchandise and passengers will be covered by the same statutes.

H.R. 1250 further defines "coastwise trade" to include transportation to and from the same point, as well as transportation between two points in the U.S.. Thus, "voyages-to-nowhere" would have to be conducted on U.S.-flag, U.S.-built, and U.S-owned vessels.

Foreign vessels will be phased out of the voyage-to-nowhere market. They will be allowed to continue to operate until January 1, 1998 if:

- they were operating voyage-to-nowhere cruises between January 1, 1990 and January 1, 1992;

- they file a list of each voyage-to-nowhere trade route they were engaged in with the Secretary of Transportation within

one year of enactment of this act;

- and during the period January 1, 1994 to January 1, 1998 each individual employed on the vessel is a U.S. citizen or a lawfully admitted alien [not more than 25% of the total crew may be comprised of legal aliens].

Exception privileges do not apply once a vessel is sold. For example, a vessel which meets all the above criteria that is sold in 1996 may not continue to operate. Exception privileges do not transfer to a new owner.

This phase-out attempts to mitigate the impact on vessel owners who acquired their ships and entered these trades based on the law at that time.

STAFF CONTACTS

Majority: David Honness 226-3533
Minority: Rusty Johnston 226-3492

cc: Members, Committee on Merchant Marine and Fisheries

Shipbuilders Council of America

Suite 330
4301 N. Fairfax Drive
Arlington, Virginia 22203
Tel: 703-276-1700 Fax. 703-276-1707

Testimony By
John J. Stocker, President
Shipbuilders Council of America

Before
Subcommittee on Merchant Marine
Committee on Merchant Marine and Fisheries

On
The United States - Flag Passenger Vessel Act of 1993

1334 Longworth House Office Building
Washington, DC 20515

March 11, 1993

Thank you, Mr. Chairman, for this opportunity for the Shipbuilders Council of America to express its strong support for the United States-Flag Passenger Vessel Act of 1993. My name is John Stocker, and I am President of the Shipbuilders Council of America. SCA is the national trade association which represents America's private shipyards and suppliers of marine equipment and services. A membership list is attached to my statement.

Before commenting on the legislation, I would like to briefly summarize the state of the U.S. shipbuilding and repair industry. Prior to the 1980's, our industry had a healthy orderbook balanced equally between commercial and Navy work. In 1981, the Reagan Administration terminated the Construction Differential Subsidy program for the construction of commercial ships in the United States at a time when foreign government subsidies were on the rise. This unilateral action resulted in the collapse of commercial shipbuilding in the United States; the export of 120,000 shipyard and related jobs; and the closure of over 40 major shipyards. Today, our industry is almost totally dependent on Navy and Coast Guard contracts for its livelihood.

With the projected cuts in the Department of Defense budget, our industry will lose another 180,000 shipyard and related jobs by the year 1998, unless action is taken to remove foreign governments from the commercial market. The rapid contraction of our industry will mean that only one - maybe two - large shipyards, and one or two smaller yards survive. If we are to reverse this trend and ensure that our industry continues to be a provider of thousands of high skilled jobs and contribute to the reduction of our national deficit, we must convert to the international commercial shipbuilding and repair market. American yards lead the world as the most productive and competitive builders of the most technologically advanced warships. We can, and must resume the lead in commercial production.

The United States-Flag Passenger Vessel Act of 1993 is a first step in that direction. The purpose of the bill is to amend section 27 of the Merchant Marine Act of 1920, commonly referred to as the Jones Act, to include within its coverage the transportation of passengers for voyages to nowhere and voyages between two points in the United States. The need for this legislation is to clarify the intent of the Passenger Vessel Act of 1886 and to close a loophole which has evolved in the "voyage to nowhere" cruise ship market in the U.S. coastwise trade.

The U.S. Customs Service has ruled that passenger ships engaged in point-to-point coastwise trade must be U.S.-owned, U.S.-crewed, and U.S.-built, which is consistent with the requirements of the Jones Act. The U.S.-Flag Passenger Vessel Act would codify the Customs Service ruling in this area.

The principal thrust of the legislation, however, is to close a loophole in the voyage to nowhere cruise ship trade. Currently, foreign-built and foreign-flag cruise ships are allowed to operate out of U.S. ports if they travel beyond the territorial seas of the United States, which is currently three miles, and return to the same port. The intent of the Jones Act, as well as the Passenger Vessel Act, was that ships operating exclusively out of U.S. ports be U.S.-built and U.S.-flagged. The reason for the Jones Act is to help ensure that America has a viable shipyard base and merchant marine fleet for economic purposes and to respond to national defense emergencies. American mariners and shipyards demonstrated their importance and the importance of the Jones Act in the recent Persian Gulf War.

In spite of these laws, foreign-flag cruises to nowhere have been permitted to operate almost exclusively in U.S. waters because they do not stop at two points in U.S. waters, or call at two U.S. ports.

The voyage to nowhere and the international cruise market are growing markets in the United States. Approximately 100 ships are expected to be built in the 1990s to serve American passengers departing from U.S. ports on cruises. Unfortunately, as these markets continue to expand, few jobs will be created in American shipyards and for American mariners unless this bill is enacted. The U.S.-Flag Passenger Vessel Act will ensure that American jobs are created on land and at sea and expand the U.S. tax base. In many cases when a ship is registered

in a foreign nation, the profits from its operations are not subject to U.S. income tax.

The bill grandfathers existing foreign-flag cruises to nowhere. It allows these vessels to continue to operate in the trade -- unless they are sold -- until 1998 provided they employ U.S. crews by 1994.

Although the purpose of this legislation is to restore the intent and integrity of the Jones Act, it is important that this Committee recognize that ships operating in the cruise to nowhere trade would probably have been built in the United States if it were not for the blatant and massive subsidy practices of foreign governments in the construction and operation of cruise ships.

The Governments of Italy and France, and to a lesser extent Germany, have made a concerted effort to capture the cruise ship market by granting subsidies as high a 60 percent of the cost of the ship. These subsidies include a direct government grant to reduce the price of the ship's construction and subsidized loans and grace periods for loan repayment. These subsidies deny unsubsidized American shipyards access to a market niche in which they are, and can be, very competitive. The financing subsidies -- tied to registering the ship in the country providing the subsidy -- serves to not only exclude U.S. builders, but also U.S. registered and manned ships from the market.

For example, Italy's state-owned Fincantieri shipyard is today the world's premier cruise shipbuilder. Yet - until 1988 - that shipyard had not built a cruise

ship for 22 years. The Italian reemergence into the cruise ship market is the sole result of massive government subsidies. The Italian Government has promised to pay Fincantieri at least $210 million on a Carnival-Holland America three ship contract valued at $750 to $800 million. One of the ships was just delivered, the other two are due in 1993 and 1994. In January of this year, P&O Princess Lines placed a $300 million contract with Fincantieri which will be eligible for a contract and operating subsidy of over 39 percent. After five years, having received the full value of the operating subsidy, P&O can register the ship under a different flag of convenience, dismiss its Italian seafarers, and hire cheaper crews. This contract follows an earlier P&O order for two ships delivered in 1990 and 1991 which the Italian Government subsidized at 58 percent.

Royal Caribbean Cruise Lines (RCCL) has received three subsidized cruise ships since 1990 from France's Chantiers de l'Atlantique shipyard. The French Government paid 29 percent subsidies on all of the ships, amounting to $210 million on contract values totalling $750 million. This is the minimum subsidy provided by the French Government, which has consistently refused to disclose the actual amounts. One of the RCCL ships was suspected of receiving a 36.5 percent government grant, rather than 28 percent. Any government finance involved was not revealed. Other examples of subsidized contracts are attached to my statement.

I mention these cruise ship subsidy contracts to demonstrate why American shipyards are not participating in neither the domestic nor international oceangoing

cruise ship market. Some of SCA's members are currently engaged in the construction of river cruises. As the cruise to nowhere trade is Americanized, oceangoing ships built for this market will serve as a springboard for American yards to enter the market for larger cruise ships once foreign government subsidies are eliminated. American yards can compete with foreign companies -- but they cannot compete with foreign governments.

In closing, the Shipbuilders Council of America thanks this Committee for its leadership on this legislation and fully supports its enactment. This is a jobs bill which will provide a sorely needed stimulus to the American economy at no cost.

Thank you.

EXAMPLES, FOREIGN SUBSIDIZED CRUISE SHIPS IN U.S. TRADES, CONT'D.

Owner	Yard/ Order Date	Ships/ Registry/Routes	Del. Date	Price and Subsidy
Royal Caribbean Cruise Lines (RCCL), USA - Miami (Parent company is Norwegian)	Chantiers de l'Atlantique, FRANCE Ordered: 1987	1 ship, 2,000+ passengers (45,000 gt) *Nordic Empress* Registry: Liberia Route: Miami-Nassau 3-day cruises	1990	Price: $180m Subsidy: 28% grant = $50.4m (+ govt. finance)
RCCL, USA - Miami	Chantiers de l'Atlantique, FRANCE Ordered: 1988	1 ship 2,350 passengers *Monarch of the Seas* Registry: Liberia or Panama Route: Caribbean (out of San Juan)	1991	Price: $270m Subsidy: 28% grant = $75.6m (36.5% grant=$98.7m) (+ govt. finance)
RCCL, USA - Miami	Chantiers de l'Atlantique, FRANCE Option on 1988 contract exercized 1989	1 ship 2,350 passengers *Majesty of the Seas* Registry: Liberia or Panama Route: Caribbean (out of Fla.)	1992	Price: $300m Subsidy: 28% grant = $84m (+ govt. finance)
Kloster Cruises, NCL subsidiary, USA - Coral Gables (Norwegian/Bermudan company)	Chantiers de l'Atlantique FRANCE Ordered: 5/90	2 ships, 1,200 psngr. ea (41,000 gt ea) *Dreamward* *Windward* Registry: Bahamas Route: Caribbean	1992 1993	Price: $220 ea, $440m total Subsidy: 20-40% *(note 4)* 20% grant = $ 88m 40% grant = $176m (+ govt. finance)
Costa Crociere, Italy	Fincantieri, ITALY Ordered: 7/89 Prelim. Agreement signed in 1987 *(note 5)*	2 ships, 1,300 psngr. ea (50,000 gt ea) *Costa Classica* *Costa Romantica* Registry: Italy Route: Caribbean	1992 1993	Price: $270m ea, $540m total Subsidy: *(note 5)* 28% grant = $151.2m 30% Italian flag subsidy = 162.0m Total: 313.2m (+ govt. finance)

Notes

4. Kloster Cruise ships - Amidst reports that the French Government had approved a $176 million subsidy on the two Kloster cruise ships ordered from Chantiers de l'Atlantique, both the government and the shipyard refused to reveal the subsidy amount. Even if the government held to the 20% subsidy ceiling for contract-related aid amounting to $88 million, the government could have come up with other avenues to provide more cash to the shipyard, such as operating aid and financing aid.

5. Costa Crociere ships - The 28% contract grant subsidy on the Costa ships was permissible under EC rules because a preliminary agreement had been signed while that subsidy ceiling was in effect.

THE BID PROCESS

During its January 24, 1992, hearing, the U.S. International Trade Commission heard testimony from John T. Estes, President of the International Council of Cruise Lines, on how the bid process works. The relevant portion of his testimony is reproduced below. No one who heard or read that testimony would confuse an initial bid tendered by a shipyard to build a new vessel with a final bid that becomes the contract price. The divergence between price estimates and final bids is even wider. No reputable analyst would use such figures interchangeably.

MR. ESTES: 146

8 One has to ask himself if, if you were buying a ship
9 or interested in acquiring one, what, what would you through?
10 What is the procedure you would go through, and it would
11 probably go something like this.
12 You would go over to France or Italy or Germany where
13 the, where the big yards that make these vessels are located,
14 and you would go through a long and laborious process of
15 negotiating a contract that would cover not only the propulsion
16 system which is, I don't mean to say it's easy, but it's
17 relatively easy compared to a negotiation of the hotel portion
18 of the vessel.
19 And then you would eventually arrive at a, at a figure
20 that you would be as the, as the owner, the buyer, would be
21 willing to pay. And most often what happens is you, through
22 your own internal development, will determine exactly what you
23 can pay, and you will probably eventually come to a position
24 where you won't pay one mark or one franc or one lire more. And
25 you will make a take-it-or-leave-it offer, that's normally how 147
1 these things happen, to the yard.
2 Well, the yard then takes it or leaves it. And if, if
3 it takes it, it will probably go to its government and say we
4 need this ship. And keep in mind that these are custom-built
5 ships, they're unique ships, and they're very costly ships.
6 They're running now from $275 to $350 million.
7 So the yard then will go to the government and make
8 its ultimatum known, and then the host government will make some
9 sort of an arrangement with the yard.

Free State Reporting, Inc.
1324 Cape St. Claire Road Annapolis, MD 21401
(301) 261-1902

What's in a price?

5 The great price mystery of Carnival's latest Italian newbuilding order appears to have been solved.

Deft massaging of exchange rates has resulted in what amounts to a financial sleight of hand which keeps both parties concerned happy but may raise eyebrows elsewhere.

When the US cruise major signed up with Fincantieri for a 95,000 gt, 2,600-passenger 'supership' last month, the price was widely reported in the international press as $400m.

But yard sources insisted to Seatrade Week that the contract was worth Lira800bn – or around $550m at the current exchange rate of Lira1,450 to the dollar. No official figure was released by Fincantieri.

The discrepancy caused particular consternation since P&O placed an order for a slightly smaller 77,000 gt, 1,950 berth cruiseship with Fincantieri shortly afterwards for an announced $300m (Seatrade Week, January 22).

On a per-berth basis, Carnival would have been paying well over the odds had the contract price indeed been $550m.

Italian sources suggest the following explanation of the deal: Carnival will be financing the newbuilding deal in lira and has had to hedge against currency exposure.

Given that delivery date is end-1996 and the lira is now floating outside the European Exchange Rate Mechanism, the financial body involved has decided that an exchange rate of Lira1,750 to the dollar is likely to apply when substantial sums are due, not Lira 1,450 to the dollar, they say.

Converting Lira800bn at the assumed future exchange rate gives a contract price of around $450m. Then factor in the 9% shipbuilding subsidy permitted by the EC and you arrive at a figure around $400m.

Brussels watchdogs will doubtless want to check the sum for themselves – so might US yard interests who have long singled out Italian-built cruiseship financing as a particular thorn in the side in their ongoing fight to eliminate subsidies worldwide.

Kloster Jr. However since Kloster has stepped down from the chair, and fellow director Einar Falck (board chairman of the collapsed Investa), has left the board, Hegnar may stand a better chance this time round.

Mosvold Farsund is now injecting NKr8m premium for a one-year option to subscribe to 1.6m Vard shares at NKr64 (Seatrade Week, January 29), easing the group's financial situation.

Hegnar is believed to be biding his time so as to present the new bid to incoming board chairman Terje Mikalsen, who will be confirmed in the post at a Feoraury 9 extraordinary general meeting.

A mystery British investor will also be behind the bid which analysts say is likely to be better received by Mikalsen than the previous offer was by Kloster.

Larvik Line and Scandi Line have both been performing well of late. For the first nine months of 1992 Larvik's profits were up 48% over the comparable 1991 period to NKr67.8m after payment of NKr68.3m bareboat charter hire to Vard; Scandi increased profits by over 20% to NKr31.2m. Group losses for the period were NKr8.2m ($1.3m). A recent analyst's report valued the ferry fleet at NKr1.2bn.

Criminal enterprise

6 US dockers lawyers are expected to appeal the recent judicial ruling that a crime-organised 'enterprise' does indeed exist on the New York and New Jersey docks. At least four men convicted of criminal acts regarding dock labour activities will be held liable for civil penalties.

This decision by federal judge Leonard Sand has sparked a controversy over the legality of government attempts to rid the waterfront of organised crime. It means that the Government will now be legally allowed to seek 'relief' in cleaning up the waterfront: that may include barring as many as 125 suspected Mafia-related union workers from the docks.

Attorneys for the International Longshoremen's Association are expected to protest such a plan vigourously because in effect it amounts to a blacklist against workers who have not been found guilty of any specific crime.

This decision, giving teeth to what up to now have been vague threats, is a major victory for the Government in its battle against mob influence on the waterfront.

Shipbuilders Council of America
Suite 330
4301 N Fairfax Drive
Arlington, Virginia 22203
Tel. 703-276-1700 Fax 703-276-1707

March 1993

REGULAR MEMBERS

The American Ship Building Company
Tampa Shipyards, Inc.
6001 South West Shore Blvd.
Tampa, FL 33616

Atlantic Marine, Inc.
8500 Heckscher Drive
Jacksonville, FL 32226

Avondale Industries, Inc.
Post Office Box 50280
New Orleans, LA 70150

Bath Iron Works Corporation
700 Washington Street
Bath, ME 04530

Bay Shipbuilding Company
605 North Third Avenue
Sturgeon Bay, WI 54235

Bender Shipbuilding &
Repair Company, Inc.
Post Office Box 42
265 S. Water Street
Mobile, AL 36601

Bethlehem Steel Corporation
Bethlehem, PA 18016
Port Arthur, TX
Sparrows Point, MD

Bollinger Machine Shop &
Shipyard, Inc.
Post Office Box 250
Lockport, LA 70374

Cascade General, Inc.
Post Office Box 4367
Portland, OR 97208

Edison Chouest Offshore
North American Shipbuilding, Inc.
East 118th Street
Galliano, LA 70354

General Dynamics Corporation
3190 Fairview Park Drive
Falls Church, VA 22042
Electric Boat Division, Groton, CT
and Quonset Point, RI

General Ship Corporation
400 Border Street
East Boston, MA 02128

Halter Marine, Inc.
13085 Industrial Seaway Road
Gulfport, MS 39505

Ingalls Shipbuilding, Inc.
Post Office Box 149
Pascagoula, MS 39567

Intermarine U.S.A.
Post Office Box 3045
Savannah, GA 31402

The Jonathan Corporation
Post Office Box 1839
Norfolk, VA 23501

Marine Hydraulics International, Inc.
543 East Indian River Road
Norfolk, VA 23523

Marinette Marine Corporation
Ely Street
Marinette, WI 54143

McDermott Cororation
Post Office Box 60035
1010 Common Street
New Orleans, LA 70160

Metro Machine Corporation
Box 1860
Norfolk, VA 23501

National Steel & Shipbuilding Company
Harbor Drive at 28th Street
Post Office Box 85278
San Diego, CA 92138

Newport News Shipbuilding
4101 Washington Avenue
Newport News, VA 23607

Norfolk Shipbuilding &
Drydock Corporation
Post Office Box 2100
Norfolk, VA 23501

Peterson Builders, Inc.
101 Pennsylvania Street
Post Office Box 47
Sturgeon Bay, WI 54235

Service Engineering Company
Pier 38
Post Office Box 7714
San Francisco, CA 94107
San Diego, CA

Southwest Marine, Inc.
Foot of Sampson Street
Post Office Box 13308
San Diego, CA 92113
San Francisco & San Pedro, CA

Textron Marine Systems
6800 Plaza Drive
New Orleans, LA 70127

Todd Shipyards Corporation
1102 SW Massachusetts
Seattle, WA 98134

ALLIED INDUSTRIES MEMBERS

Bird-Johnson Company
110 Norfolk Street
Walpole, MA 02081

Centrico, Inc.
100 Fairway Court
Northvale, NJ 07647

Dresser Pump Division
Dresser Industries, Inc.
401 Worthington Avenue
Harrison, NJ 07029

Fairbanks Morse Engine Division
1730 M Street, NW
Washington, DC 20036

General Electric Company
1331 Pennsylvania Avenue, NW
Washington, DC 20004

Hopeman Brothers, Inc.
Post Office Box 820
Waynesboro, VA 22980

IMO Industries, Inc.
3450 Princeton Pike
Post Office Box 6550
Lawrenceville, NJ 08648

Jamestown Metal Marine Sales, Inc.
4710 Northwest Second Avenue
Boca Raton, FL 33431

Jered Brown Brothers, Inc.
1608 Newcastle Street - Post Office Box 904
Brunswick, GA 31521

Lake Shore, Inc.
Post Office Box 809
Iron Mountain, MI 49801

Reliance Electric Company
24800 Tungsten Road
Cleveland, OH 44117

Sperry Marine, Inc.
Aerospace & Marine Group
Route 29 North
Charlottesville, VA 22907

Teleflex Incorporated
771 First Avenue
King of Prussia, PA 19406

Westinghouse Electric Corporation
Hendy Avenue
Sunnyvale, CA 94088

York International Corporation
631 South Richland Avenue
York, PA 17405

AFFILIATE MEMBERS

The Bingham Group
1825 Eye Street, NW
Suite 400
Washington, DC 20006

Bastianelli, Brown & Touhey
2828 Pennsylvania Avenue, NW
Washington, DC 20007

Colton & Company
1700 N. Moore Street - Suite 1805
Arlington, VA 22209

Contralytics Corporation
Two Eaton Street - Suite 704
Hampton, VA 23669

Fort & Schlefer
1401 New York Avenue, NW
Washington, DC 20005

PacOrd, Inc.
2700 Hoover Avenue
National City, CA 92050

Peterson Consulting L.P.
101 Federal Street
25th Floor
Boston, MA 02110

Poten & Partners, Inc.
711 Third Avenue
New York, NY 10017

NAVAL ARCHITECT MEMBERS

Designers & Planners, Inc.
2611 Jefferson Davis Highway
Arlington, VA 22202

JJH Inc.
5400 Shawnee Road - Suite 300
Alexandria, VA 22312

John J. McMullen Associates, Inc.
One World Trade Center
New York, NY 10048

Rosenblatt & Son, Inc.
350 Broadway
New York, NY 10013

ASSOCIATION MEMBERS

New York and New Jersey
Dry Dock Association
c/o New York Shipyard
One Beard Street
Brooklyn, NY 11231

South Tidewater Association
of Ship Repairers, Inc.
Post Office Box 2341
Norfolk, VA 23501-2341

HARVEY WALPERT - U.S. FLAG PASSENGER VESSEL ACT OF 1993
STATEMENT BEFORE HOUSE SUBCOMMITTEE ON MERCHANT MARINE
MARCH 11, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM HARVEY WALPERT, SENIOR VICE PRESIDENT OF TRINITY MARINE GROUP, HEADQUARTERED IN GULFPORT, MISSISSIPPI. I WANT TO EXPRESS MY APPRECIATION TO YOU, MR. CHAIRMAN, FOR THE OPPORTUNITY TO APPEAR BEFORE THE MERCHANT MARINE SUBCOMMITTEE TODAY IN SUPPORT OF THE UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993. I AM REPRESENTING THE AMERICAN WATERWAYS SHIPYARD CONFERENCE (AWSC) AND ONE OF ITS MEMBERS, TRINITY MARINE GROUP.

I TESTIFIED ON A VERY SIMILAR BILL LAST YEAR. I AM PLEASED THAT YOUR COMMITTEE AND THE HOUSE PASSED THE BILL TO THE SENATE. WE WERE VERY DISAPPOINTED THAT THE SENATE DID NOT ACT ON IT. IT IS A GOOD BILL AND AN IMPORTANT ONE FOR OUR INDUSTRY. I WOULD LIKE TO THANK REPRESENTATIVE GENE TAYLOR AGAIN, AS I DID LAST YEAR, FOR INTRODUCING THE U.S. FLAG PASSENGER ACT, AND FOR HIS LEADERSHIP AND DILIGENCE IN PROMOTING THE U.S. MARITIME INDUSTRY, AS WELL. HIS CONTINUING EFFORTS HAVE MADE A POSITIVE IMPACT ON THE ECONOMY OF GULFPORT AND MOSS POINT AS WELL AS MANY OTHER COMMUNITIES THROUGHOUT THE COUNTRY THAT ARE RELATED TO THE MARINE INDUSTRY. I HAVE PERSONALLY ENJOYED WORKING WITH REP. TAYLOR AND APPRECIATE HAVING A CONGRESSMAN WHO PAYS SUCH CLOSE ATTENTION TO HIS CONSTITUENTS AND WORKS TO PROVIDE GOOD PAYING JOBS.

THE AMERICAN WATERWAYS SHIPYARD CONFERENCE (AWSC) IS THE NATIONAL TRADE ASSOCIATION THAT REPRESENTS SECOND TIER, SMALL AND MEDIUM SIZE SHIPYARDS. AWSC MEMBERS OWN AND OPERATE SHIPYARDS ON THE COASTS AND ON THE INLAND RIVER SYSTEM. THEY BUILD AND REPAIR THE NATION'S FLEET OF 7,200 TUGBOATS AND 31,000 BARGES OF ALL KINDS, AS WELL AS FISHING VESSELS, SUPPLY BOATS, CREWBOATS, AND OTHER SPECIALIZED VESSELS FOR THE INDUSTRY THAT SERVES OFFSHORE DRILLING PLATFORMS. AWSC MEMBERS ALSO CONSTRUCT AND REPAIR THE NAVY'S

SMALLER VESSELS, SEVERAL TYPES AND SIZES OF COAST GUARD VESSELS, VESSELS OPERATED BY THE ARMY CORPS OF ENGINEERS, AND OCEANOGRAPHIC RESEARCH VESSELS OPERATED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) AND ACADEMIC INSTITUTIONS. SECOND TIER SHIPYARDS RANGE IN SIZE FROM SMALL FAMILY-OWNED YARDS WITH FEW EMPLOYEES, TO STATE-OF-THE-ART FACILITIES WITH HUNDREDS OF WORKERS.

THE TRINITY MARINE GROUP OPERATES TWELVE SHIPYARDS IN THE UNITED STATES. WE HAVE FIVE SHIPYARDS IN LOUISIANA AND FOUR IN MISSISSIPPI, LOCATED IN MR. TAYLOR'S DISTRICT. IN ADDITION, WE OPERATE YARDS IN BEAUMONT, TEXAS, AND BROWNSVILLE, PENNSYLVANIA. WE HAVE RECENTLY ACQUIRED THE YARD KNOWN AS EASTERN SHIPYARDS, IN PANAMA CITY, FLORIDA, AND ARE SEEKING BUSINESS TO REOPEN THIS SHIPYARD. WE BUILD EVERYTHING FROM LUXURY MEGA YACHTS, INLAND AND OFFSHORE TUGS AND BARGES, VESSELS FOR THE OFFSHORE OIL INDUSTRY, FERRIES, PLEASURE CRUISE VESSELS, PADDLEWHEELERS, AND A VARIETY OF RESEARCH AND MILITARY CRAFT. TRINITY MARINE GROUP IS THE NATION'S LARGEST BUILDER OF SHIPS IN THE 100' TO 600' RANGE. TOTAL SALES OF TRINITY MARINE GROUP LAST YEAR WAS NEARLY $300 MILLION. OF THIS, NEARLY 1/3 WAS FOR MILITARY VESSELS. THE REMAINING SALES WERE FOR FERRIES, DINNER CRUISE VESSELS, OIL SPILL RECOVERY VESSELS, TUGS AND BARGES. TRINITY MARINE GROUP SHIPYARDS ARE AMONG THE MOST COMPETITIVE IN THE UNITED STATES. WE ARE AS COMPETITIVE AS ANY SHIPYARD IN THE WORLD THAT BUILDS SIMILAR VESSELS ON A MANHOURS PER TON BASIS. WE SELL VESSELS AROUND THE WORLD. WE SELL CREWBOATS TO COUNTRIES IN THE MIDDLE EAST AND PATROL BOATS IN SOUTH AMERICA. THE SAME IS TRUE FOR SOME OF OUR FELLOW MEMBERS OF AWSC.

TOTAL TRINITY MARINE GROUP EMPLOYMENT AT THIS TIME IS APPROXIMATELY 3300 PEOPLE. THEY ARE EXPERIENCED, COMPETENT, MOTIVATED SHIPBUILDERS WHO ARE THE MATCH OF ANY IN THE WORLD AND WE

SUCCESSFULLY OPERATE ON THE STRENGTH OF THEIR HARD WORK AND KNOWLEDGE. OUR PARENT COMPANY, TRINITY INDUSTRIES, IS A NEW YORK STOCK EXCHANGE COMPANY.

MR. CHAIRMAN, THE U.S. FLAG PASSENGER ACT IS AN APPROPRIATE AND USEFUL PROPOSAL FOR SEVERAL REASONS. AMONG THE STRONGEST REASONS IS THAT THE U.S. FLAG PASSENGER ACT WOULD RESULT IN ADDITIONAL WORK FOR U.S. SHIPYARDS. IF "CRUISES TO NOWHERE" ARE COVERED UNDER THE JONES ACT, THE VESSELS OPERATING IN THIS TRADE MUST BE BUILT IN U.S. SHIPYARDS. SCORES OF U.S. SHIPYARDS, ESPECIALLY SECOND TIER SHIPYARDS, ARE CAPABLE OF BUILDING VESSELS TO MEET THE ANTICIPATED DEMAND IN A DEPENDABLE AND COST EFFICIENT FASHION.

ALL THE PRESENT "CRUISES TO NOWHERE" ARE CONDUCTED ON VESSELS WHICH ARE NOT BUILT TO THE SAME STANDARDS AND SUBJECT TO THE GOVERNMENT INSPECTIONS THAT ARE REQUIRED FOR U.S. BUILT VESSELS. BY COVERING "CRUISES TO NOWHERE" UNDER THE JONES ACT, THESE VESSELS WOULD BE BUILT IN U.S. SHIPYARDS AND MANNED BY U.S. CREWS, THEREBY GUARANTEEING PASSENGERS THE PROTECTION OF THE UNIFORM AND STRICT SAFETY STANDARDS OF THE U.S. COAST GUARD.

MR. CHAIRMAN, THIS IS AN OPPORTUNITY FOR ALL PARTIES INVOLVED IN THE MARINE INDUSTRY -- VESSEL OWNERS, CREW MEMBERS, AND SHIPYARDS AND RELATED INDUSTRIES -- TO RECAPTURE THIS BUSINESS. THE UNITED STATES TREASURY WOULD RECEIVE THE REVENUES GROWING OUT OF THIS ACTIVITY AND U.S. SHIPYARDS AND RELATED INDUSTRIES WOULD GAIN NEW BUSINESS.

THIS CONCLUDES MY PREPARED STATEMENT. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

STATEMENT OF AMERICAN MARITIME OFFICERS, AFL-CIO

IN SUPPORT OF THE

"UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993"

BY CHARLES T. CRANGLE
EXECUTIVE DIRECTOR OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS
AMERICAN MARITIME OFFICERS, AFL-CIO

MARCH 11, 1993

American Maritime Officers wishes to inform the Chairman and Members of the Subcommittee on Merchant Marine of its support of pending legislation the "United States-Flag Passenger Vessel Act of 1993" introduced to remedy an incorrect interpretation of the 1886 Passenger Ship Act.

American Maritime Officers (AMO), an affiliate of the Maritime Trades Department of the AFL-CIO, is a labor organization representing U.S. Coast Guard licensed deck, engineering and radio officers. AMO members serve on private and government owned and operated U.S. flag vessels in the foreign, coastwise, Great Lakes and inland waterway maritime trades of the United States. AMO members serve aboard tankers, bulk and general cargo vessels, tugs, towboats and on the only large passenger vessels in operation under U.S. flag.

American Maritime Officers supported the passage of H.R. 5257, the "United States Passenger Vessel Act of 1992" when that bill was considered by this Committee during the 102nd Congress. The underlying conditions which elicited that remedial legislation have not changed. The domestic maritime passenger industry of the United States remains crippled because of an indefensible and illogical interpretation of the coastwise laws of the United States. The men and women who are members of AMO are constantly

amazed at the lengths the various Departments of the United States Government are willing to go to develop, nurture, and protect a foreign flag maritime industry which is almost wholly dependent upon commerce (or in this case, passengers) with the United States for revenue. It is our hope the arguments we make will be of sufficient weight to convince every Member of Congress on this Committee to join in our petition to have the Passenger Service Act of 1886 interpreted as it was written and as it was intended.

PASSENGER SERVICE ACT OF 1886

"NO FOREIGN VESSEL SHALL TRANSPORT PASSENGERS BETWEEN PORTS OR PLACES IN THE UNITED STATES WHETHER DIRECTLY OR BY WAY OF A FOREIGN PORT, UNDER A PENALTY OF TWO HUNDRED DOLLARS FOR EACH PASSENGER SO TRANSPORTED AND LANDED" (46 APP. U.S.C. 289)

The intent of the 1886 Act is obvious. The Congress which enacted the legislation intended to restrict the waterborne carriage of passengers in the domestic maritime trades of the United States. No foreign flag vessels were to be permitted to carry passengers in the trade. An intervening foreign port or place during the voyage was not intended to invalidate the intent of the Act. The Act requires that passengers in the domestic commerce of the United States travelling from one port to another by ship could only do so on a U.S. flag vessel. An intervening

foreign port or place was not intended to invalidate Congressionally mandated protection of U.S. vessel owners operating U.S. built vessels crewed by U.S. mariners.

The U.S. Customs Service has ruled, in spite of the statutory intent, that a foreign flag vessel which embarks passengers in a U.S. port and sails out to sea passing the boundary of the State in which the port is located (and the boundary of the United States of America) and which vessel then returns to that same port is engaged in an international voyage. The passengers on these "cruises to nowhere" do not disembark in a foreign port. Quite the contrary, it is seldom that the passengers ever lose sight of the port in the United States from which they sailed! It is not an unusual practice, on the foreign flag vessels being permitted to flaunt the will of the Congress of the United States, for the vessel, once reaching international waters, (that is beyond the boundary of the State and the United States) to sail parallel to the shoreline...back and forth...clearly visible from the shore and within the reach of a strong swimmer.

CURRENT LAW: FOREIGN FLAG ADVANTAGES

The vessels involved in the "cruise to nowhere" trade need not meet the rigid U.S. Coast Guard passenger ship safety rules applicable on U.S. vessels. The vessels involved in this "cruise

to nowhere" trade are not required to employ U.S. citizen mariners. The law does not mandate that crewmembers on the foreign flag vessels even demonstrate their capacity to communicate with each other or with the passengers in a common language. The National Transportation Safety Board, in its study of passenger vessels serving the United States, pointed to the polyglot nature of the crews on foreign flag vessels carrying American passengers as a major threat to the safety of the passengers and the vessel.

CURRENT LAW: HARMFUL TO U.S. VESSEL OPERATORS

An American vessel operator wishing to enter the "cruise to nowhere" business faces almost insurmountable problems. His foreign flag competitors can search the Third World for the most economically desperate individuals willing to crew the vessel. The American operator must pay the minimum wage. The American operator must hire experienced U.S. Coast Guard licensed and documented mariners. The foreign flag operator may not be subject to the same tax burden borne by the American operator. The foreign flag operator may be the recipient of a sizeable subsidy from a foreign shipyard for the construction or major overhaul of the vessel. The United States unilaterally disarmed itself in the worldwide shipbuilding business in 1982 by eliminating the Construction Differential Subsidy (CDS) for ship construction in the United States. The foreign flag operator is often subject to a regulatory

scheme enforced, if at all, by a government of undetermined competence, uncertain tenure, and dubious honesty. Last year the Liberian government disappeared into the countryside during a coup attempt. The former chief executive of Panama now resides in a Federal penitentiary. Both Liberia and Panama are popular flag states for "cruise to nowhere" vessels. How concerned those governments are with the condition of vessels flying their flags or the crew members sailing their vessels is a fit subject for intensive investigation by this Committee.

A SAFETY BILL

Passenger Safety will be improved by the regulatory reforms which will take place by restricting the coastwise passenger trade to U.S. flag vessels with U.S. crews. English speaking U.S. Coast Guard licensed and documented mariners will be responsible for the safety of the passengers and the vessel. The vessel will be under the direct regulation of the U.S. Coast Guard. This bill will protect the lives and safety of American citizens.

A JOBS BILL

AMO supports the passage of the legislation because we believe it will create well paying jobs for Americans. By restricting the coastwise passenger trade of the United States to U.S. flag vessels jobs will be created for American merchant mariners and American shipyard workers. It is the policy of this Congress to fund the United States Merchant Marine Academy as well as provide assistance to the state maritime academies in Maine, Massachusetts, New York, Texas, California, and Michigan. Passage of this bill will materially improve the opportunities for the young men and women now preparing themselves for a career at sea. AMO maintains training facilities in Dania, Florida and Toledo, Ohio to prepare our members for the increasing technological demands which will be placed on all those who go to sea in the future. AMO members and their families will be the beneficiaries of the passage of this important piece of maritime legislation.

The passage of this bill will require that after a certain date all vessels in the trade will have to have been built in an American shipyard. It is logical and proper for the Subcommittee on Merchant Marine to support the shipbuilding and marine supplier industrial base of the United States with the passage of this bill.

IMPROVE COMPETITION

The passage of the "United States-Flag Passenger Vessel Act of

1993" will improve competition in the coastwise passenger trade. The passage of this legislation will force vessel operators to compete with one another on the quality of service, the appeal of the itinerary and the safety of the vessel. Presently, competition is between operators seeking the least costly crews to crew increasingly obsolete vessels. In all too many cases, these vessels are only floating gambling platforms. The competitive edge will flow to those operators who are most skillful in the employment of their resources, and not, as at present, in the exploitation of their crewmembers.

It is time for this Congress to assure the people of the United States that the clear intent of any piece of legislation which it has promulgated in a previous Congress, even legislation enacted in 1886, is to be interpreted and enforced as written and intended. It is time for the Members of the 103rd Congress to see to it that legislation, such as the Passenger Ship Act of 1886, written to regulate the safety of passengers and to provide jobs for American mariners and American shipyard workers and revenue for American vessel operators and American shipbuilders, is given full force.

We ask you to pass the "United States-Flag Passenger Vessel Act of 1993" as a first step in the development of a doctrine of judicial and bureaucratic maritime legislative interpretation which has, at its core, the idea that every Department of the United

States Government is absolutely bound by the letter and spirit of legislation enacted by Congress and signed by the President.

STATEMENT OF THE
SEAFARERS INTERNATIONAL UNION
OF NORTH AMERICA

BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

U.S. HOUSE OF REPRESENTATIVES

MARCH 11, 1993

ON H.R. 1250
THE UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

Mr. Chairman and Members of the Subcommittee:

The Seafarers International Union of North America (SIU) represents thousands of merchant seamen working aboard U.S.-flag vessels operating in both domestic and international trades. SIU members crew the only two U.S.-flag ocean-going passenger vessels, the Constitution and the Independence. The SIU wishes to thank the subcommittee for the opportunity to express its strong support for H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, and urges this subcommittee to take rapid action to facilitate passage of this measure to promote U.S.-flag operations.

Despite the provisions of U.S. cabotage laws such as the Passenger Service Act and the Jones Act, foreign-flag vessels have historically used several imprecisions in statutory language to infiltrate the domestic market. Many of these areas of foreign activity in coastwise trade have now been closed. Non-coastwise-qualified vessels may not engage in fishing, off-shore supply, waste-hauling or ocean mining activities within the United States' Exclusive Economic Zone. Now is the time to correct another major loophole in our cabotage laws, and to properly reserve our domestic passenger trades for U.S.-flag vessels, by passing H.R. 1250.

The U.S. Customs Service has ruled that voyages-to-nowhere are round-trips from the same and not technically transportation "between ports or places," and therefore foreign-flag vessels may offer these itineraries from U.S. ports so long as they journey

beyond the limit of U.S. territorial seas (currently for these purposes three miles). While on the high seas, these vessels are largely exempt from U.S. jurisdiction. It is self-evident that these voyages-to-nowhere, exclusively serving U.S. ports and U.S.-based passengers, are offering a purely domestic service that should be covered by U.S. cabotage law. The voyage-to-nowhere loophole of the Passenger Service Act clearly conflicts with U.S. policy of reserving domestic trades for U.S.-built, U.S.-manned, U.S.-owned, U.S.-flag vessels.

The Passenger Service Act was passed in 1886, while the Jones Act was enacted in 1920, and similar coastwise trade protection has existed from the beginning of our nation's history. These historic policies have stood the test of time and today are as vital, or more so, as when they were originally enacted. However, when the Passenger Service Act was enacted, the cruise industry was a century away from its present stage of development, and voyages-to-nowhere were not even considered. It would have been ludicrous to suggest that the public would pay money to embark on a steamship of the 1880s, be tossed about at sea for several hours, and not even get anywhere. Despite this drafting oversight of more than a century ago, Congress, through its many amendments to the Jones Act to close analogous loopholes, has repeatedly made it clear that domestic waterborne commerce should be reserved for U.S.-flag vessels.

Over the years the Jones Act has been amended numerous times

to clarify its provisions. There is a wealth of rulings, case law, and other refinements that have continuously and actively refined the Jones Act's meaning. But the language of the Passenger Service Act has remained static, and there has been relatively little enhancement of the statute from court cases or administrative rulings.

Foreign-flag vessels have offered numerous voyage-to-nowhere services from several areas of the nation. Most of the operations have been concentrated in Florida, and the Gulf Coast areas where the climate facilitates year-round operations. U.S.-flag excursion vessels have been especially harmed in these areas and until recently have had difficulty directly competing with foreign-flag vessels that do not have to abide by American laws and regulations. The foreign-flag operators usually use older vessels often built and repaired in a subsidized foreign shipyard.

Perhaps the largest of the unfair competitive advantages is that foreign-flag operators are usually owned by offshore corporations that pay significantly less in total taxes than comparable U.S.-flag operators. Foreign-flag cruise ships predominantly or exclusively serving American citizens and ports employ tens of thousands of foreign seamen who are not subject to Coast Guard training requirements, federally-mandated merchant mariner background investigations, drug testing, U.S. labor laws, or the jurisdiction of our criminal statutes. Often, a lack of shipboard safety skills and the inability to communicate in English to passengers (or even in a common language among the crew)

underscore a serious threat to passenger safety. American merchant mariners must meet U.S. Coast Guard requirements, are drug-tested, and are subjected to a F.B.I. background check, are able to communicate with passengers.

Still, the Coast Guard and National Transportation Safety Board have no authority to investigate accidents involving foreign-flag ships once they are beyond our territorial waters. Foreign-flag cruise-to-nowhere operators frequently use their flags and international law as a shield between themselves and U.S. jurisdiction, taxes, and law enforcement. With their exclusive use of U.S. ports, these vessels do not deserve the benefits and deference extended under maritime law to authentically international commerce by foreign vessels. The best way to insure the safety of American voyage-to-nowhere passengers is the revitalization of the U.S.-flag cruise fleet and H.R. 1250 is the best method to do that.

U.S.-flag cruise vessels will retain a significant amount of tourist expenditures that currently escape from the United States untaxed. A U.S. cruise fleet will assist the balance of payments, create jobs for merchant mariners and shoreside employees, and contribute to national security. These vessels must be built and repaired in U.S. shipyards employing skilled American workers. A continuous program of maintenance and renovation is necessary to keep up with the strict safety standards that our nation rightfully requires for the protection of passengers. These requirements will

provide substantial work for the ship repair facilities of our nation's shipyards and their employees.

Thanks in a large part to Rep. Taylor and the work of this subcommittee, P.L. 102-251 was signed into law just over a year ago and as a result U.S.-flag vessels can effectively replace foreign ships in U.S. domestic trades. The specific intent of the law is to permit U.S.-flag vessels to conduct gambling on the high seas to the same extent that it is currently permitted on foreign-flag vessels, and thus to enhance the competitive ability of U.S.-flag vessels. Since U.S.-flag vessels are automatically subject to federal jurisdiction and U.S. taxation even when on the high seas, there will be much improved oversight when compared to unregulated foreign-flag gambling on cruises-to-nowhere.

In conclusion, the SIU strongly supports H.R. 1250, the U.S.-Flag Passenger Vessel Act of 1993. The bill facilitates the potential for beneficial, U.S.-flag operations to commence. There are adequate grandfather provisions in the bill to insure that existing foreign operations have ample time to comply with this measure. On previous occasions the U.S Customs Service has stated that there will be no enforcement problems with this concept. The legislation insures that the operations currently immune from so many reasonable domestic laws can no longer monopolize the U.S. market. U.S.-flag vessels will bring substantial economic and consumer benefits to the nation -- benefits that far exceed those of the tax-exempt foreign vessels. Again, on behalf of the SIU, thank-you very much for the opportunity to submit our views.

International Organization of
Masters, Mates & Pilots
700 Maritime Blvd., Linthicum Heights, MD 21090-1941 Tel No (301) 850-8700
Cable BRIDGEDECK WASHINGTON D C Telex No 750-831 Telecopier No (301) 850-8725

TIMOTHY A. BROWN
International President
JAMES T. HOPKINS, JR.
International Secretary-Treasurer

STATEMENT OF

CAPTAIN TIMOTHY A. BROWN, PRESIDENT

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS

ILA, AFL-CIO

TO THE

SUBCOMMITTEE ON MERCHANT MARINE

ON THE

U.S.-FLAG PASSENGER VESSEL ACT OF 1993

HR 1250

MARCH 11, 1993

Mr. Chairman and Members of the Subcommittee:

I am Captain Timothy A. Brown, President of the International Organization of Masters, Mates & Pilots, ILA, AFL-CIO. The Masters, Mates & Pilots Union represents masters, licensed deck officers and other personnel working aboard United States-flag commercial vessels.

I am extremely pleased to support HR 1250, legislation to amend the coastwise laws of the United States to clarify their application to certain passenger vessels. Specifically, we understand the United States-Flag Passenger Vessel Act of 1993 will bring so-called cruise-to-nowhere operations under the scope of our coastwise laws, a position we have strongly and consistently advocated.

In the last Congress, this Subcommittee led the way to the enactment of legislation to permit licensed and regulated gaming on United States-flag cruise vessels operating on the high seas. As incongruous as it seems, United States law prohibited only American cruise vessels from offering shipboard casinos -- not the foreign flag cruise ships which operate from American ports and which carry American passengers. In other words, prior to the action taken in the last Congress, American law discriminated against American ships. United States vessels were precluded from offering the same shipboard activities and attractions as those offered by foreign flag cruise ships under our law.

The legislation which is the subject of this hearing addresses another matter which is impeding the development of an American cruise vessel industry and which is denying American shipbuilding and shipboard personnel their rightful employment. This situation warrants corrective action.

Specifically, an administrative interpretation of Title 46, United States Code, section 289 has ignored what we believe is the clear intent of that statute to the detriment of the American maritime industry. In fact, this incorrect interpretation of the law has only served to create a new type of foreign cruise vessel industry which is able to operate outside our law.

Title 46 USC 289 states that "no foreign vessel shall transport passengers between ports or places in the United States ..." The United States Customs Service has decided that 46 USC 289 does not prohibit a foreign flag cruise vessel from leaving and returning to the same American port with no intervening stops at any foreign ports. This interpretation has resulted in the birth and the growth of the "cruise-to-nowhere" fleet, a fleet effectively beyond the control of the United States and yet dependent almost entirely upon American passengers and American dollars.

When Congress enacted the coastwise shipping statutes, it did so to ensure that the domestic transportation by water of passengers and cargo remains under the control of the United States. In so doing, our country could guarantee that its economic, national security and environmental policies would be advanced, and not be subverted by the operation of foreign vessels.

Yet, due to this interpretation of the law by the Customs Service, the operators of foreign flag cruise-to-nowhere vessels do not use American built ships, do not employ American

crews, do not pay American taxes, do not meet American safety standards, and do not comply with American drug testing regulations. This is all because a Federal agency has concluded that a vessel which is home ported in a U.S. domestic port, which leaves a U.S. domestic port, returns to the same U.S. domestic port and never touches a non-domestic port is somehow not engaged in domestic commerce!

We respectfully ask this Subcommittee and the Congress to reassert their authority in this area. We believe it is time for Congress to eliminate yet one more vehicle which does little more than encourage companies to operate vessels under foreign flags, companies which are exempt from American construction and operation, safety, drug testing and labor laws.

It is, in our opinion, entirely appropriate for Congress to correct this misinterpretation of the law. In so doing, Congress can help stimulate much-needed commercial vessel construction in American shipyards and create equally important shipboard employment opportunities for American maritime personnel. At this time in our nation's history when all segments of society are asked to contribute to the effort to revitalize the national economy, it is imperative that the laws and regulations on the books be properly interpreted and implemented and that our government no longer provide the way for companies to employ foreign workers. If our industry is to survive we need the support of our government, not United States government created foreign flag vessels operations.

We do agree that HR 1250 should contain a grandfather provision in order to minimize any immediate adverse impact on American ports. We are pleased that the grandfather provision in the legislation is limited and not permanent. This helps ensure that the cruise-to-nowhere industry will have to comply

as soon as possible with United States law, that vessels will be constructed in the United States for this trade, and that ships which comply with all United States laws will begin operating under the American flag with American crews.

In conclusion, we thank you, Mr. Chairman, and the members of this Subcommittee for scheduling early hearings on this vitally important legislation. We also want to again express our deep appreciation to Congressman Gene Taylor for his sponsorship of similar legislation in the 102nd Congress and his continuing leadership in this area. We look forward to working with you to secure the speedy enactment of this legislation.

ICCL
INTERNATIONAL COUNCIL
OF CRUISE LINES

Carnival Cruise Lines
Celebrity Cruises
Commodore Cruise Lines
Costa Cruise Lines NV
Crystal Cruises Inc
Cunard Line Ltd
Dolphin Cruise Line
Epirotiki Lines Inc
Fantasy Cruises
Holland America Line
Norwegian Cruise Line
Premier Cruise Lines
Princess Cruises
Royal Caribbean Cruises Ltd
Royal Cruise Line
Royal Viking Line
Sun Line Cruises
Windstar Cruises

STATEMENT ON BEHALF OF

THE INTERNATIONAL COUNCIL OF CRUISE LINES

BEFORE THE

HOUSE SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

REGARDING H.R. 1250

"THE U.S. FLAG PASSENGER VESSEL ACT OF 1993"

THURSDAY, MARCH 11, 1993

68-664 46

1211 Connecticut Avenue, N.W. • Suite 800 • Washington, D.C. 20036 (USA) • TEL (202) 296-8463 • FAX (202) 296-1676

Mr. Chairman, members of the Committee, my name is John T. Estes, I am President of the International Council of Cruise Lines (ICCL). The ICCL is a non-profit industry association representing American- and foreign-owned companies engaged in the overnight, oceangoing passenger cruise industry. The 20 passenger lines that make up our membership, all of whom fly foreign flags, account for the vast majority of the deep-sea passenger cruise capacity worldwide (see Attachment A).

We appreciate your invitation, Mr. Chairman, to come here today to discuss in concept legislation pertaining to the so-called "cruise-to-nowhere" or casino gambling ship industry and application it could have to foreign-flag passenger cruise vessels. I say "in concept", Mr. Chairman, because we have not had a chance to thoroughly review H.R. 1250, which we received yesterday. We are pleased to inform you, however, we support the legislation with a few minor clarifications set out below.

For the record, let me make clear the ICCL membership is not engaged as a core business purpose in the "cruise-to-nowhere" industry. If there is any similarity between "cruise-to-nowhere" vessels and those of ICCL members it is that both have onboard gambling facilities. But even that similarity is tenuous at best. Our vessels contain gambling facilities merely as an incidental entertainment activity, not as the primary purpose of the voyage, as is the case of cruise-to-nowhere operations. Therefore, if the purpose of the proposed legislation is to restrict "cruise-to-nowhere" gambling business to U.S.-flag vessels, we would not oppose such a

measure so long as it is in keeping with traditional U.S. policy regarding international agreements and recognized maritime practice.

To this point, Mr. Chairman, we would urge you to act cautiously so as not to create consequences that could reach beyond the intended purpose of this legislation and unintentionally interfere with decades of maritime law and practice governing the operation of foreign-flag vessels in international commerce. I would refer you to comments we submitted last year on H.R. 5257, "The United States Passenger Vessel Services Act of 1992" which clearly details such consequences. It is our understanding that the sole purpose of the legislation before you today is to regulate the cruise-to-nowhere industry, as was the purpose of similar legislation last year. If that is indeed the case, the definitions identifying a cruise-to-nowhere need to be perfectly clear. As stated last year in the Committee Report accompanying H.R. 5257:

(a) a cruise-to-nowhere does not include foreign commerce voyages during which passengers depart a vessel, either temporarily or permanently, in a foreign country;

(b) in using the word "depart", it should be clear that a passenger is not required to "disembark" which, under commonly accepted usage, would require a passenger to terminate travel in the foreign country;

(c) it should also be clear that the definition of "coastwise trade" does not include instances in which a vessel must return to the original port during a bona fide emergency without first having called on a foreign port; and

(d) the current interpretations now in effect regarding the practice of calling at "foreign distant ports" under Section 8 of the existing Passenger Vessel Act of 1886 will remain unaffected by this new legislation.

We would urge that the foregoing clarifications be included in the legislation. These important matters were discussed in some detail on page five of House Report 102-835 accompanying H.R. 5257.

I should note, Mr. Chairman, that there are occasions when an ICCL member vessel could leave a U.S. port and return to the same port in a manner similar to that of a "cruise-to-nowhere" vessel. For example, it is customary and traditional for our industry to introduce new ship buildings or newly refurbished vessels by providing brief, gratuitous cruises in U.S. coastal waters to travel agents and representatives of the U.S. tourism industry. Such cruises -- called "familiarity" cruises or FAM cruises -- allow participants to become familiar with the new ship so that they are better able to provide their customers -- potential passengers -- first hand knowledge of the vessel. On other occasions, ICCL members could engage in coastwise transportation between scheduled itineraries or after a scheduled or unscheduled dry dock maintenance period, or for charitable activities which our vessels engage in from time-to-time. This is done to minimize down time and to keep the vessel actively engaged. These are not, of course, traditional cruises nor are they part of the normal and routine course of business. We would urge, therefore, that such brief and occasional vessel utilization would not be encompassed in the restrictive "cruise-to-nowhere" gambling ship legislation.

In our view, and with only a short time to examine this new Bill, we have found the language somewhat confusing and suggest it could be clarified to better serve the intended and the sole purpose of restricting gambling vessels engaged in the cruise-to-nowhere business in coastwise trade. We would, as always, be happy to work with the Committee in developing language to clarify the intended purpose of the Bill.

Even though we are not in the cruise-to-nowhere gambling business, we are keenly sensitive to unilateral nation state or port state restrictions on maritime activities and crewing requirements of foreign-flag vessels calling at U.S. ports. We believe the International Maritime Organization (IMO) shares a similar view. Any chipping away of the freedoms of international maritime commerce and restrictions on vessel employment practices undermines well-established principles of freedom of the seas and free access to international ports. Care should be taken to avoid any such erosion.

In conclusion, Mr. Chairman, we support the Bill with the foregoing clarifications and have no objection to the intended purpose of the proposed legislation aimed at restricting gambling ships engaged in cruise-to-nowhere operations. Members of our organization are not engaged in that business. All port state restrictions on foreign-flag vessels, however, should, I am sure you agree, be carefully weighed as delicate policy questions arise regarding: (1) the potential impact on international commerce; (2) maintaining respect for the sovereignty of foreign flags; and (3) traditional and legitimate principles of maritime law that have evolved pertaining to foreign commerce.

Again, on behalf of the ICCL, we appreciate your invitation to be here today. We would be pleased to answer questions and provide additional information as appropriate.

Attachment A

ICCL MEMBERSHIP 1993

CARNIVAL CRUISE LINES

CELEBRITY CRUISES

COMMODORE CRUISE LINE

COSTA CRUISE LINES NV

CROWN CRUISE LINE

CRYSTAL CRUISES

CUNARD LINE LTD

DOLPHIN CRUISE LINE

EPIROTIKI LINES

FANTASY CRUISES

HOLLAND AMERICA LINE

MAJESTY CRUISE LINE

NORWEGIAN CRUISE LINE

PREMIER CRUISE LINE

PRINCESS CRUISES

ROYAL CARIBBEAN CRUISE LTD.

ROYAL CRUISE LINE

ROYAL VIKING LINE

SUN LINE

WINDSTAR CRUISES

STATEMENT OF
JAMES L. HENRY
PRESIDENT

BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

U.S. HOUSE OF REPRESENTATIVES

MARCH 11, 1993

ON H.R. 1250
THE UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

The Transportation Institute is a maritime research and educational association representing over 140 U.S.-flag shipping companies engaged in the nation's foreign and domestic trades. Included in our membership is American Hawaii Cruises, which operates the only two U.S.-flag ocean-going passenger vessels, and Delta Queen Steamboat Company which operates the largest overnight passenger vessels on the nation's inland rivers. The Institute supports H.R. 1250, the United States Flag Passenger Vessel Act of 1993, and urges this subcommittee to take prompt and positive action on this measure, which is not an expansion by merely a logical clarification of U.S. cabotage policy. While vitally important, we believe, however, that this legislation should be viewed as one component of a comprehensive program to expand U.S.-flag cruise service.

Correctly, H.R. 1250 calls for the phasing out of foreign-flag vessels engaged in voyages-to-nowhere during which time U.S.-flag vessels will rightfully expand their presence in the market. Ample time is provided for the transition, consequently neither U.S. ports that derive revenue from voyage-to-nowhere vessels, nor existing owners of foreign-flag vessels need be financially distressed by the measure. Nor do we believe that the bill will have a negative effect on the existing overnight cruise industry. Concerns about the impact of H.R. 1250 on existing foreign itineraries or product introductory cruises for the cruise fleet engaged in international service have been addressed and do not represent a problem.

By closing the voyage-to-nowhere loophole in the Passenger Service Act of 1886, this legislation will have a profoundly beneficial impact on the U.S.-flag cruise industry.

Worldwide, the cruise industry is growing rapidly, with most of the growth occurring in the U.S.-based short cruise market. Yet, today, the U.S.-flag cruise industry is virtually non-existent. For a number of reasons which are beyond the control of the U.S.-flag cruise industry, U.S.-flag ships have been unable to compete effectively against foreign-flag vessels.

Foreign-flag vessel operators are earning enormous revenue from domestic voyage-to-nowhere operations and paying little or nothing in corporate taxes. Similar U.S.-flag operations would produce substantially higher levels of tax revenue and provide thousands of additional jobs for American merchant seamen. A large pool of trained merchant seamen would greatly enhance U.S. security as well as strengthening the U.S. economy and promote passenger safety.

Until very recently, for example, modern gaming was not permitted on any U.S.-flag cruise vessel, while foreign-flag vessels operating from U.S. ports were allowed to offer shipboard casino gaming to U.S. citizens, a discrepancy which placed U.S.-flag cruise vessels at an overwhelming disadvantage. Consequently, foreign-flag vessels monopolized the domestic voyage-to-nowhere market at considerable cost to the U.S. economy and American workers.

In order to remedy this unfair situation, P.L. 102-251 was enacted on March 9, 1992. Members of this subcommittee are to be commended for supporting that measure which like H.R. 1250 was sponsored by Representative Taylor. The law removed some of the obstacles that stood in the way of a more competitive U.S.-flag cruise industry. However, it left several significant obstacles untouched. The law is intended to permit

U.S.-flag vessels to conduct gaming on the high seas to the same extent that it is permitted on foreign-flag vessels. Unfortunately, because the law fails to clarify the Gambling Ship Act with regard to earnings from gaming revenues, much of the potential investment in U.S.-flag assets will be deferred until that clarification is undertaken. Also, the failure to repeal the Gaming Devices Act (Johnson Act) as it applies to the Great Lakes, negates the sovereignty of the eight states in the region and limits the possibility of U.S.-Canada cruise trade on the lakes.

Despite the remaining problems with the Gambling Ship Act, P.L. 102-251 has led to some investment, and U.S.-flag vessels can and are competing in the domestic voyage-to-nowhere market, despite the greater regulatory burdens under which U.S.-flag vessels must operate in comparison to foreign-flag vessels. This optimism is justified in view of the many marketing advantages--increased passenger safety being foremost among them--associated with the U.S. flag. Heretofore, U.S.-flag vessel operators have been unable to capitalize on these advantages because until recently they have been unable to offer gaming, a service which voyage-to-nowhere and other cruise passengers have sought. In order to avail themselves of this on-board activity, they have had to forego the many other advantages of embarking on a U.S.-flag vessel.

Passengers taking voyages-to-nowhere aboard U.S.-flag vessels are guaranteed the protections afforded by U.S. maritime safety standards, U.S. law enforcement and existing federal regulations applying to U.S. gaming operations. Foreign-flag vessels engaged in the domestic voyage-to-nowhere trade are not subject to full U.S. Coast Guard oversight, leaving passenger safety in some doubt. Nor are they bound by U.S. laws and regulations pertaining to gaming. Gaming operations aboard U.S.-flag vessels are subject to multiple federal oversight functions. As with vessels of other registries, the

Department of Justice requires the registration of gambling devices in accordance with the Johnson Act. In addition, the Department of Treasury monitors revenue and currency matters through the Internal Revenue Service and the U.S. Customs Service; and shipboard gaming is subject to the casino reporting requirements of the Banking Secrecy Act.

However, until U.S. registry is required for vessels sailing on voyages-to-nowhere, U.S. citizens who would otherwise choose to take such a cruise on a U.S.-flag vessel for reasons of safety and concern for the U.S. economy, and who wish to engage in gaming activities, will continue to flock in steadily increasing numbers to foreign-flag vessels. U.S.-flag vessel operators will continue to be burdened with unfair competitive disadvantages against foreign-flag vessels in the domestic voyage-to-nowhere market. Federal state and local governments will continue to lose out on revenue from corporate and individual taxes.

With a view toward reversing this unacceptable situation, the Institute respectfully urges this subcommittee to seek clarification from the Department of Justice and the U.S. Customs Service regarding the Gambling Ship Act to insure that violations of the law cannot be based on the percentage of revenue earned from gaming. Such a clarification is urgently required to promote the U.S.-flag cruise industry, expand the number of U.S. maritime-related jobs, generate more federal, state and local tax revenue, and provide U.S. shipyards with more repair and construction work--all of which would provide a needed boost to the U.S. economy. Until the confusion surrounding the issue of gaming aboard U.S.-flag vessels on voyages-to-nowhere and operation on the Great Lakes is dispelled and a clear decision is made to permit such activity, many potential U.S.-flag vessel operators will lack the necessary incentive to invest in U.S.-flag activities.

In conclusion, the Institute strongly supports H.R. 1250. It is both sound maritime policy and a logical clarification of U.S. cabotage law. By closing the voyage-to-nowhere loophole of the Passenger Service Act of 1886, it will serve to promote the expansion of the U.S.-flag cruise industry. An expanded U.S.-flag cruise industry will mean thousands of additional maritime-related jobs, a stronger U.S. shipbuilding industry, enhanced cruise passenger safety, and substantially increased federal state and local tax revenue.

The National Association of
Passenger Vessel Owners

808 17th Street, NW
Suite 200
Washington, DC 20006
(202)785-0510
FAX (202) 785-0540

Statement by the
Passenger Vessel Association

Committee on Merchant Marine and Fisheries

March 11, 1993

A Bill to Amend the Coastwise Trade Laws
to Clarify their Application to Certain Passenger Vessels

The Passenger Vessel Association, formerly known as the National Association of Passenger Vessel Owners, is pleased to submit this statement in strong support of H.R.1250, legislation to clarify the conditions under which foreign- flag vessel operators may operate cruises from one point in American waters and return to the same point. Such cruises commonly are referred to as "voyages-to-nowhere".

The Passenger Vessel Association today represents more than 500 companies that operate or supply passenger vessels. Our members actually operate more than 1,200 vessels, which are American built, owned, operated, crewed and subject to the full safety oversight of the U.S. Coast Guard. We operate throughout the country, providing the public with dinner cruises, sightseeing and tour excursions, car and passenger ferry services, charter vessel operations, casino gaming vessels, domestic overnight trips and other passenger carrying operations. In 1991, our members carried more than 55 million people on safe, economical voyages.

We appreciate the opportunity, once again, to support this critical legislation -- legislation that will do much to help American vessel operators compete with low cost foreign vessel operators within our own country. We also want to take this opportunity to thank Congressman Gene Taylor for his tireless efforts to pass this bill, Chairman Lipinski, both for cosponsoring the measure and for scheduling a hearing on it early in this Congress, and Chairman Studds, Congressman Bateman and Congressman Fields for their support. It is our hope that the measure will be enacted, finally, before the end of 1993.

As you know, the Passenger Vessel Association has appeared before this Committee on several occasions to discuss our concerns about issues of fair competition and passenger vessel safety. The domestic passenger vessel industry is among the strongest and healthiest segments of the U. S. maritime industry, employing thousands of people and contributing tens of millions of dollars to the American economy each year. Yet many of our operators are forced to compete with low cost foreign operators who do not bear either the capital or operating costs of flying the U.S. flag. This competition exists primarily in the "voyage-to-nowhere" trade. It is a competition American operators often lose.

For years, Congress has held that the transportation of goods or passengers between points or ports in the U.S. is reserved to American owned, built and crewed vessels. Unfortunately, the U.S. Customs Service, relying on Justice Department opinions dating back to the early 1900s, has allowed a loophole to develop that permits a foreign-flag vessel to leave a U.S. port, cruise three to 12 miles to international waters, turn around and return to the same port without being in violation of the law. Because of foreign vessels' substantially lower operating costs, employing as they do foreign crews and not being subject to U.S. tax or regulatory requirements, foreign vessels utilizing this loophole have come to dominate the short duration dinner cruise market in some ports. Until enactment of the U.S. Flag Cruise Ship Competitiveness Act last year, this advantage was even greater as foreign vessels, unlike their American counterparts, also could offer gambling onboard these cruises.

American operators cannot compete against such foreign vessels. Indeed, two years ago one of our members testified before this Committee that his company had been forced to cease operating in two locations and lay off close to 100 American workers because he could not compete with these low cost foreign operations. During the recent America's Cup race activities the Australian vessel Golden Swan began a dinner cruise service out of San Diego in which the vessel cruised briefly beyond the international boundary in order to make its voyage fit the Customs Service interpretation before returning to U.S. waters. Following its policy, the Customs Services declined to see this obvious ruse as a violation of the law reserving domestic service to U.S. vessels. This vessel is currently out of service, as it is being outfitted to conduct gambling cruises to Mexico. Without enactment of H.R.1250, foreign operators will continue to exploit this loophole to keep Americans out of this business.

The unfair competition to Americans should not be the only concern to policy makers, nor is it the only concern of the Passenger Vessel Association. As the primary association representing the passenger vessel industry, we are keenly aware of the need to preserve the reputation of our industry for providing safe, reliable passenger transportation. Foreign-flag vessels operating short "voyages-to-nowhere" out of U.S. ports are not subject to the array of U.S. Coast Guard safety standards to which American vessels are subject -- a fact which may be lost on the thousands of people who board these vessels each year. Indeed, in its report on cruise ship safety, the National Transportation Safety Broad cited numerous instances where foreign-flag vessels safety standards need to be improved. Vessels used in the "voyage-to-nowhere" market may be even less safe as they, unlike their counterparts in the international cruise trade, seldom if ever return to their flag state to undergo safety inspections. American

vessel operators, on the other hand, recognize the critical importance of complying with safety standards, incurring annually the high cost of maintaining extensive safety equipment, administering drug tests, undergoing Coast Guard-imposed maintenance and repair schedules, and the interruption of operations for inspections.

Operators of U.S. passenger vessels can offer the finest and safest service anywhere if allowed to compete on a level playing field. The bill H.R.1250 moves us in that direction, and our Association is eager to work with the Congress to achieve its enactment as soon as possible.

March 11, 1993
pubpol\gamble.12

STATEMENT OF DISCOVERY CRUISES OF
FORT LAUDERDALE AND PORT EVERGLADES, FLORIDA,
REGARDING H.R. 1250
THE UNITED STATES FLAG
PASSENGER VESSEL ACT OF 1993

BEFORE THE MERCHANT MARINE SUBCOMMITTEE
OF THE MERCHANT MARINE AND FISHERIES COMMITTEE
OF THE U.S. HOUSE OF REPRESENTATIVES

HEARING DATE:

MARCH 11, 1993

HR 1250, THE UNITED STATES FLAG-PASSENGER VESSEL ACT OF 1993, WILL PUT DISCOVERY CRUISES OF FORT LAUDERDALE AND PORT EVERGLADES, FLORIDA, OUT OF BUSINESS AND WILL HAVE A NEGATIVE ECONOMIC IMPACT

The proposed United States Flag-Passenger Vessel Act of 1993, HR 1250, will put Discovery Cruise Line ("Discovery Cruises" or "Discovery") of Fort Lauderdale, Florida and which operates the M/V Discovery I out of Port Everglades, Florida, out of business. The result will be lost US jobs, lost local and State revenues, lost US tax revenue, lost investment by Discovery Cruises, and lost scheduled service between Florida and the Bahamas. These are unnecessary and undesirable effects of the bill's proposed blanket prohibition of foreign-flag cruise vessels from short, out-and-back cruises out of US ports. Discovery Cruises opposes this overly-broad legislation and its unnecessary draconian impacts.

HR 1250 is intended to eliminate foreign vessels with no US economic allegiences or benefits from the "cruise-to-nowhere" market. The bill is based on the assumption that US-built and US-crewed vessels would enter the abandoned market, providing a large benefit to US shipbuilding and maritime unions. In the case of Discovery Cruises, however, the legislation would eliminate the M/V Discovery I which contributes a great deal to the US economy. There is little likelihood that a US flag vessel will or could enter Discovery Cruises' niche market. The circumstances of Discovery Cruises

and the M/V Discovery I are unique, and the undesirable effects on it and the economy should be avoided.

The following discussion describes Discovery Cruises and its operations. In an effort to indicate fully the nature of Discovery Cruises' business and operations and the unnecessary and undesirable impact of the proposed legislation, the discussion also addresses a number of issues arising at the hearing on HR 1250 before the Merchant Marine Subcommittee on March 11, 1993 as they relate to Discovery Cruises and M/V Discovery I.

Discovery Cruises Is Chartered And Headquartered In The State Of Florida.

Discovery Cruise Line consists of Discovery Cruises, Inc. and Discovery Sea Tours, Inc., which are US corporations chartered in the State of Florida. The corporations are partners in a foreign partnership qualified to and doing business in Florida and which owns M/V Discovery I. The partnership manages, operates and controls the complete operation of the vessel.

The business is handled by the offices of Discovery Cruises at Fort Lauderdale. The staff of about 170 local residents handle all aspects of the company's operations.

M/V Discovery I Is A Full-Service
Cruise Vessel Permanently
Homeported In Port Everglades, Florida.

The M/V Discovery I is a Panamanian registered luxury cruise ship which is homeported in and operates from Port Everglades. It is the largest one-day cruise ship in North America. It has six levels, a crew of about 400, and has carried up to 1450 passengers on a single cruise. The vessel offers all of the amenities and concessions of a full cruise vessel, including a limited number of cabins, with entertainment and recreation appropriate for groups and families.

The M/V Discovery sails roundtrip to Freeport, Bahamas four days a week. These cruises are of 13 to 15 hours duration. Three days a week, the ship sails on short cruises out and back to Port Everglades. The short cruises are four and one-half to six and one-half hours in length. The vessel sails eleven times a week in total.

Discovery Cruises Provides Transportation
And Recreational Services In A Low-Cost,
Low-Revenue And Inelastic Niche Market.

Discovery's primary market consists of tourists and local residents who cannot afford the time or money for long luxury cruises. Its ticket prices range from $29 to $119. The market will not support vessels charging higher prices for

short cruises. Instead, customers will turn to other recreational activities in other places, or in many cases will stay at home. For those who wish to go to the Bahamas, the beneficiaries of higher ticket prices or cessation of Discovery's operations will not be other vessels but international airlines, which offer inexpensive fares, about $100 roundtrip, for the short flight to the Bahamas.

Discovery's profit margin is thin in its very limited market. The M/V Discovery I has been in operation since 1987; the first profitable year was 1990. That modest profit was $500,000 which equates to 1.7% of revenue or $1.16 per passenger. In 1992, Discovery made $170,000. As a business enterprise, Discovery would like to charge higher prices, but its market will not allow it.

HR 1250 Will Eliminate the Bahamas Cruises From Port Everglades.

If Discovery is prohibited from conducting out-and-back cruises as provided in HR 1250, not only will cruises-to-nowhere be eliminated, but the Bahamas day-cruise business will be inadvertantly killed as well. In order to continue operating out of Port Everglades under HR 1250, Discovery would have to eliminate its short out-and-back cruises which have no foreign port call. Elimination of these cruises would put Discovery out of business.

Discovery cannot operate an all-Bahamas schedule due to lower passenger counts and higher operating costs. In the past, Discovery has tried substituting Bahamas cruises for short cruises, but found that it did not work because Discovery could not maintain the passenger count necessary for the economic operation of the vessel. Further, Discovery found that the extra costs of fuel to perform the additional Bahamas cruises increased its fixed costs in an already high fixed-cost business. Thus, under HR 1250, Discovery would have no choice but to cease operations altogether out of Port Everglades.

Discovery Cruises' Investment In This Market Would Not Be Realized or Replaced.

Discovery Cruises has invested millions of dollars in its vessel and present operations. The M/V Discovery I is a second-hand foreign-built ferry vessel. It underwent a major conversion to its present use and, for several years, was chartered by Discovery Cruises. In 1992, Discovery Cruises purchased the vessel for $24 million.

HR 1250 not only would prevent Discovery Cruises from realizing on its investment, but the vessel and its operations in this niche market cannot be replaced by a US-built or US-flag vessel. There are no second-hand US vessels of similar type, vintage or cost. The cost of a comparable new US-built vessel would be at least $100 million. The cost of such a

vessel cannot be recovered in this limited market. Moreover, the high costs of US-flag operation in this market are prohibitive. The combined costs of investment and operation would prohibit a US vessel of any comparable size from offering the same cruise and transportation services at a price that the present clientele would or could pay.

Discovery Cruises Provides Many Jobs
And Much Revenue to the Local Economy.

The impression may exist that just because a short-cruise operation utilizes a foreign-flag vessel, it adds nothing to the local US economy and does nothing but take revenue from the US. In the case of Discovery Cruises, this is far from the truth.

Discovery provides millions of dollars to the local and State economies and provides hundreds of jobs to Florida residents. One million passengers a year depart on cruises from Port Everglades. Port Everglades is the second busiest and fastest growing cruise port in the world. Currently fifteen cruise lines operate thirty cruise vessels out of Port Everglades. Discovery carries over 400,000 passengers a year or about 40 percent of all passengers departing on cruises out of Port Everglades. More than one-half of Port Everglades' passenger revenue is derived from Discovery. In fact, Discovery is the single largest customer of Port Everglades.

Discovery believes that of its passengers 40 percent, or 160,000 persons per year, are out-of-state visitors drawn to the area by Discovery's promotion. These Discovery customers stay in South Florida for at least two days in addition to the cruise and any Bahamas stay. Using the Florida Tourist Board figure from several years ago of $100 per person per day, Discovery is attracting $32 million in out-of-state expenditures to South Florida.

Discovery's total expenses for 1992 were approximately $36,700,000. Of that, approximately $29,600,000 was spent in the United States, and nearly all of that figure - $28,000,000 - was spent in the State of Florida. Moreover, since the vessel's arrival in 1987, repairs to M/V Discovery I have been performed at US ship repair yards. Recent repairs were performed in Norfolk at a cost of $860,000. Fuel and supplies for M/V Discovery I are purchased in the US.

While the M/V Discovery I crew is not US, Discovery directly employs about 170 persons at its corporate offices at Port Everglades. All of these employees live in Broward, Dade or Palm Beach Counties. If Discovery were forced to cease offering cruises, its 170 employees would lose their jobs.

Discovery Cruises Pays State, Local and US Taxes and Fees.

Another unfortunate generalization made about all operations using foreign-flag vessels is that they use US and

local facilities and services and contribute nothing. These companies broadly have been described as freeloaders who are abusing a loophole in the system. This is not true regarding Discovery Cruises. It pays a large amount of State, local and US taxes and fees. It is an enterprise that is fully integrated into the economy, and it is paying its way.

Discovery Cruises, Inc. and Discovery Sea Tours, Inc. are US subchapter S corporations. Any profits realized by these corporations are attributable directly to the US corporate owner.

Until 1992, the M/V Discovery I was owned by an unrelated foreign shipping corporation that did not operate within the US. While it was not subject to US corporate income taxes, it was taxed by the US on its gross US-source shipping revenue. The owner had an annual average total gross revenue on the vessel of about $1,600,000, of which about $1,165,000, or 73 percent, was attributable to the US. It is important to note that revenue during cruises-to-nowhere is attributable entirely to the US and taxed as US income. It is also important to note that the US-source tax is based on gross revenue; there are no deductions, and taxes are paid whether or not the company makes a profit. The amount of these taxes paid to the US by the foreign owner was about $240,000 per year.

If concessionaires onboard M/V Discovery I are related to Discovery Cruises, the income is attributable as US income.

Other concessionaires are taxed according to citizenship and attribution of income formulas, or, if the concessionaire is a US citizen, then all income is taxable.

Federal taxes are applicable to all US employees. In 1992, for shore-based employees, the withholding and the payments made by Discovery as employer amounted to about $1 million. Payments and withholdings were also made for US citizens or residents employed aboard the vessel. Non-US citizens are subject to US income taxes on wages earned attributable as US source income.

In 1992, Discovery paid port fees and other maritime related taxes of almost $3.5 million. These included federal passenger head taxes of $3.00 per passenger; Port Everglades head taxes of $1.25 per passenger; dockage fees for each docking based on the tonnage of the vessel; linesman fees charged by the Port for each docking; Customs and Immigration fees for vessel services; fees to the US Department of Agriculture for inspections; fees for US Public Health Service inspection of the vessel; and $675,000 paid to the Port Everglades Pilot Association.

The tax returns and records of the corporations are reviewed by the US Internal Revenue Service specialists in shipping and foreign income related revenues. All taxes have been fully paid.

The M/V Discovery I Is Operated Safely and Consistent With the Highest Maritime Standards.

Finally, another misconception created about operations of foreign-flag vessels is that they are inherently unsafe. It is claimed that they meet no demanding safety standards for training and equipment, and, because the crew is foreign, the language barrier creates a hazard in emergency situations.

These claims are false regarding Discovery Cruises. Its crew and equipment meet high standards. Further, shipboard personnel are prepared to deal expertly with passengers in a number of languages. Moreover, it would be mistaken to assume that passengers boarding vessels in Southern Florida speak English as a first language or even at all. After English, the most prevelent language aboard the M/V Discovery I is Spanish, which is consistent with the demography of South Florida.

Regarding construction and physical arrangement, the vessel is subject to strict, recognized international standards. The safety regime is established by the Safety of Life at Sea Convention ("SOLAS") which is administered by the United Nations International Maritime Organization ("IMO"). Safety certifications are issued by an international classification society roughly equivalent to the American Bureau of Shipping.

The SOLAS safety standards are those applied by all of the world's major maritime states and the IMO is the regulatory standards organization. The US Coast Guard on behalf of the United States attends IMO meetings and participates in the negotiation of new rules, standards and interpretations. US Coast Guard representatives have stated that the SOLAS standards are the functional equivalent of the US Coast Guard inspection rules and standards.

Regarding safety maintenance and training, the M/V Discovery I is subject to a "control verification" process. The verification is exercised by the US as the port state of the vessel. Under this regime, the US Coast Guard carries out an extensive review of the structural fire-fighting and life-saving apparatus and other physical arrangements of the vessel prior to its commencing service in the US. In place of a "certificate of inspection" that a US vessel would have, the SOLAS vessel has a "passenger vessel safety certificate" issued by the flag state and confirmed by inspections by the Coast Guard.

The Coast Guard conducts "quarterly control verifications" in which it reviews the vessel to confirm maintenance of the safety equipment and vessel structural requirements, crew training and capabilities demonstrated by drills of fire-fighting, and safety apparatus and equipment training demonstrated by abandon-ship exercises.

A Control Verification Log is maintained aboard the vessel in which the US Coast Guard visits are noted together with recommendations or instructions. The M/V Discovery I has consistently satisfied the Coast Guard control verification procedure requirements and has never been cited for any material safety-related problem or any other matter.

The readiness of the M/V Discovery I crew was demonstrated in a recent incident during a nighttime voyage. During the evening cruise, a passenger attempted suicide by jumping overboard in the darkness. A watchful crew member saw her go, ran to a life ring fitted with a rescue light and tossed it overboard. The 13,000 ton vessel reversed course and in six-foot seas launched a motorized lifeboat to conduct a search. The woman was located in the vicinity of the life ring and was recovered. The rescue was captured in photographs and a passenger's video, and it received considerable local notice. Discovery Cruises and the crew are justifiably proud of the readiness and ability evidenced in this incident.

Training manuals, reports, logs, certificates and other documentation concerning the safety of the M/V Discovery I are available for review.

Conclusion

The demise of Discovery Cruises would be a significant loss and would benefit no US interest. Indeed, elimination of

Discovery would be harmful to the US, the State of Florida, the City of Ft. Lauderdale, Port Everglades, vacationing individuals of limited means, and US ship repair yards and providers of ship services. The amount of revenue produced by Discovery's operations will cease. Many US employees would lose their livelihoods. Moreover, Discovery's experience has proved that vessels with higher costs and ticket prices would not replace M/V Discovery I. Port Everglades will lose its most productive passenger vessel.

HR 1250 should not be passed unless the negative impacts of the overly broad legislation are corrected.

880V

HR 1250, THE UNITED STATES FLAG-PASSENGER VESSEL ACT OF 1993, WILL PUT DISCOVERY CRUISES OF FORT LAUDERDALE AND PORT EVERGLADES, FLORIDA, OUT OF BUSINESS AND WILL HAVE A NEGATIVE ECONOMIC IMPACT

Summary

HR 1250 is intended to eliminate foreign-flag cruise vessels from the US short, out-and-back cruise market. It is anticipated that US flag vessels will be constructed, and, crewed by US maritime labor, will fill the vacuum. In support of the legislation, it has been alleged that foreign-flag vessels in this market add nothing to the US economy, pay no US taxes or fees, and are inherently unsafe.

In the case of the operation of M/V Discovery I, homeported in Port Everglades, Florida, these assumptions are not valid. Further, the elimination of the vessel from the market will not provide an opportunity for replacement by US vessels and crews, and it will cost millions in local and US revenues along with hundreds of jobs. Moreover, a safe and popular option for inexpensive recreation and transportation to a foreign port will have been lost.

- Discovery Cruises, Inc., and Discovery Sea Tours, Inc., chartered and headquartered in the State of Florida, operate the M/V Discovery I. It is a Panamanian-flag vessel operated through a partnership of the US corporations.

- The M/V Discovery I is a full size, 13,000 ton, luxury cruise ship. It is the largest one-day cruise ship in North America. It operates four days a week to the Bahamas and three days a week in short "cruises-to-nowhere" out of Port Everglades. It offers the full cruise experience with recreation and concessions appropriate to groups and families. Based on the ability to operate in this market, the vessel was purchased and subjected to a major conversion from a European ferry vessel to its present purpose.

- In its niche market, Discovery Cruises provides cruises for from $29 to $119. Its profit margin is extremely thin. Passengers are generally local persons or tourists who cannot afford the time or money for a more expensive cruise experience or water transportation to the Bahamas. The market will not bear higher prices. Moreover, Discovery Cruises cannot operate only Bahamas cruises without the shorter local cruises. Also, neither Discovery Cruises nor any other operator can serve the market with the higher operating costs of a US flag and US crewed vessel.

- Discovery Cruises' operations provide local revenues and hundreds of jobs to US citizens in Florida. About 170 local persons are employed at its headquarters. The vessel carries over 400,000 passengers a year and is the busiest passenger vessel in Port Everglades. More than one-half of Port Everglades' passenger revenue is derived from Discovery. It is estimated that Discovery attracts more than $32 million in out-of-state revenue to South Florida. Further, Discovery's total expenses for 1992 were almost $37 million. Of this amount, almost $30 million was spent in the US and almost all of that was spent in the State of Florida. All fuel and other supplies are purchased in the US. Recent repairs were performed in Norfolk at a cost of $860,000.

BOSTON PUBLIC LIBRARY
3 9999 05982 626 1

• In 1992, Discovery Cruises paid millions of dollars in US, State and local taxes and fees. These include income taxes, source revenue taxes, withholding and FICA taxes, federal passenger head taxes, port head taxes, dockage fees, linesman fees, Customs and Immigration fees, US Department of Agriculture fees, US Public Health Service inspection fees, and $675,000 to the Port Everglades Pilot Association.

• The M/V Discovery I is constructed, operated and equipped safely. It is subject to strict international standards and inspection for verification by the US Coast Guard. The US Coast Guard also conducts quarterly control verification reviews including fire-fighting and abandon-ship drills.

• There is no language barrier between crew and passengers; like South Florida, the vessel's crew is as proficient in Spanish as English. The vessel has never been cited for any material safety-related problem. It and the crew performed perfectly in a recent nighttime incident involving a passenger's attempt to commit suicide by jumping overboard.

Conclusion

The elimination of Discovery Cruises would be a significant loss and would benefit no US interest. Indeed, elimination of Discovery would be harmful to the US, the State of Florida, the City of Ft. Lauderdale, Port Everglades, vacationing individuals of limited means, and US shipyards and US providers of ship supplies and services. The local revenues produced by Discovery's operations will cease. Many US employees will lose their jobs. US vessels with higher costs and ticket prices will not replace the M/V Discovery I. Port Everglades will lose its most productive passenger vessel.

HR 1250 should not be passed unless the negative impacts of the overly broad legislation are corrected.

881V

ISBN 0-16-041143-2